

KADW050052242024



Presented on : 30-10-2024
Registered on : 30-10-2024
Decided on : 30-07-2026
Duration : 1 years, 9 months, 0 days

**IN THE COURT OF III ADDL SENIOR CIVIL JUDGE &
C.J.M AT DHARWAD**

**PRESENT: Smt.Hemashree D.
B.A.L., L.L.B.,**

**III Addl. Senior Civil Judge & C.J.M
Dharwad**

Dated: This 30th day of July- 2026

C.C.No.2744/2024

Between

Complainant :

Shri. Chidambara Souharada
Pattina Sahakari Niyamita,
Constituted and functioning under
Karnataka Souharda Sahakari Act-
1997 having its registered office at
No.214 "Bhavani", Singapura
Paradise Post: Vidyaranyapura
Bengaluru 560097 and having it
branch at Malamaddi Khan
complex, 1st floor Railway station
road Malamaddi Dharwad
Represented by its authorized
person Mrs. Parimala W/o Anand

Joshi Manager, Malamaddi Branch
Age: 39 years, Occ: Manager
R/o: Malamaddi, Dharwad.

(By Sri. C.T.L. Adv.)

Vs.

Accused : Kalpana W/o Dattatreya Kulkarni,
Age: 38 years,
Occ: Catering service,
R/o: C/o M.G. Kari House, Near
Sharada Dairy, Hosayallapur,
Dharwad.

(By Sri. S.M.J. Adv.)

J U D G M E N T

The present complaint is filed under Sec.200 of CRPC against the accused for the offence alleged to have been committed U/S.138 NI Act.

2. The complaint averments are as follows:

On the application of the accused the complainant Society sanctioned personal loan of Rs.30,000/- on 07-09-2021. The accused agreed to repay the loan in 24 installments of Rs.1484/- each with interest at the rate of 17% per annum.

However, the accused did not repay the loan as per the installment mandate. Thus, the outstanding balance is Rs.38,000/-. Thereafter, on repeated requests by the complainant to repay the due amount, the accused issued cheque bearing No.057252 dated 03-08-2023 for Rs.38,000/- drawn on The Federal Bank Ltd., Dharwad branch. When the complainant presented the said cheque to her banker Karnataka Bank Ltd., Gopalpur branch, Malamaddi Dharwad for encashment, the cheque was returned with endorsement 'drawer's signature incomplete' on 04-08-2023. On the request of the accused, the complainant presented the said cheque again on 26-09-2023. But the cheque was returned unpaid for the reason 'drawer's signature differs' on 27-09-2023. Therefore, the complainant issued legal notice to the accused on 25-10-2023. In spite of it the accused neither replied nor complied. Thus, the accused has committed the offence punishable under Section 138 of N I Act.

3. The sworn statement of the complainant was recorded. After taking cognizance process was issued to

the accused. The accused appeared through her counsel and is enlarged on bail. The sum and substance of accusation was read over and explained to her for which she pleaded not guilty.

4. The sworn statement of the complainant is treated as her evidence. On behalf of complainant Ex.P.1 to 14 are marked. Thereafter the accused was examined under Sec.313 CRPC. She totally denied the incriminating evidence against her in the complainant's case and submitted to adduce defense evidence. However, the accused has not adduced any evidence.

5. Heard arguments addressed on behalf of accused.
No arguments addressed on behalf of complainant.

6. The following points arise for my consideration:-

1. Has the complainant proved that Ex.P1 cheque was issued by the accused towards the discharge of legal liability and on its presentation was dishonoured for the reason 'drawer's signature differs', that the accused

failed to pay the cheque amount within the stipulated period and thereby committed the offence punishable under Section 138 NI Act?

2. What order or sentence?

7. My findings on the above points are as follows:

Point No.1: In the Negative

Point No.2: As per the final order
for the following;

REASONS

8. **Point No.1:** The authorized official of the complainant as PW.1 deposed that the accused borrowed loan of Rs.30,000/- from the complainant Society as personal loan and towards repayment of the outstanding loan amount of Rs.38,000/- the accused issued cheque which on presentation to the bank was dishonoured for the reason 'drawer's signature incomplete' and 'drawer's signature differs' and inspite of notice issued to her, the accused has not paid the cheque amount.

9. To substantiate her case PW.1 has produced Ex.P.2

which is the cheque bearing No.057252 dated 03-08-2023. Ex.P.3 is the bank memo dated 27-09-2023. As per Ex.P.3, on presentation of Ex.P.2 cheque it was dishonoured for the reason 'drawer's signature differs' on 27-09-2023. Ex.P.4 is the legal notice issued by the complainant to the accused on 25-10-2023. Ex.P.5 is the postal receipt. Ex.P.6 is the returned postal cover. PW.1 has also produced her authorization letter at Ex.P.1. Ex.P.7 is the true copy of branch certificate. Ex.P.8 is the true copy of registration certificate. Ex.P.9 is the loan application submitted by the accused. Ex.P.10 is the processing note/sanction letter. Ex.P.11 is the promissory note. Ex.P.12 is the debit voucher. Ex.P.13 is the consent letter. Ex.P.14 is the certificate u/Sec.65(B) of Indian Evidence Act. Ex.P.14(a) is the loan account statement pertaining to the accused.

10. The offence under Sec.138 NI Act will be complete on compliance of provision of Sec.138(a) to (c) of the Act, when it is shown that the cheque was issued towards the discharge of a legal liability and it was dishonored for reason

of 'insufficient funds' etc., in the credit of the accused.

11. The materials on record disclosed that after examination in chief, PW.1 remained absent. Hence, court notice was issued to PW.1 to tender herself for cross-examination. But PW.1 continuously remained absent. Thereafter, the branch manager of the complainant by name Rohini Kulkarni was present before the court. However, PW.1 subsequently remained absent and failed to tender herself for cross-examination. Thus, as PW.1 remained absent the accused could not subjected her to cross-examination and the accused had no opportunity to put forth her defence. When PW.1 has failed to subject herself for cross examination, no evidentiary value can be attached to her examination in chief. Consequently, it has to be held that the complainant has failed to prove her case. Accordingly, **Point No.1 is answered in the negative.**

12. **Point No.2:** As per the finding on point No.1 the accused is found not guilty of the offence punishable under Section 138 of N I Act. Accordingly I pass the following;

ORDER

The accused is acquitted of the offence punishable under Sec.138 of NI Act.

The bail bond and surety bond of the accused shall stand cancelled.

(Direct dictation given to the Stenographer on computer, typed by her and corrected by me and then pronounced in the open court on this 30th July 2026)

(Smt.Hemashree.D)
III Addl. Sr.Civil Judge & CJM
Dharwad.

ANNEXURE**1. List of witnesses examined for the Complainant:**

PW.1: Mrs. Parimal W/o Anand Joshi

2. List of witnesses examined for the accused:

Nil

3. List of documents marked for the Complainant:

Ex.P1	Authorization letter
Ex.P2	Cheque
Ex.P2(a)	Signature

Ex.P3	Return memo
Ex.P4	Legal Notice
Ex.P5	Postal receipt
Ex.P6	Returned postal cover
Ex.P6(a)	Notice in Ex.P.6
Ex.P7	Branch certificate
Ex.P8	Registration certificate
Ex.P9	Loan application
Ex.P10	Processing note/sanction letter
Ex.P11	Promissory note
Ex.P12	Debit voucher
Ex.P13	Consent letter
Ex.P14	Certificate u/Sec.65(B) of Indian Evidence Act
Ex.P14(a)	Statement of account

4. List of documents marked for the accused:

NIL.

**III Addl. Sr. Civil Judge, & CJM
Dharwad.**