

KAHS600009832024



**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
& J.M.F.C., CHANNARAYAPATNA**

PRESENT: ARUNA KUMARI A

B.A. (Law), L.L.B., L.L.M.,

**PRINCIPAL SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

DATED ON THIS 6th DAY OF MAY 2026

C.C.No.282/2024

Complainant : Sri.N P Shanthakumar

V/s

Accused : Sri.A R Chandregowda

Parties to IA

Applicant : Sri.A R Chandregowda

V/s

Opponent : Sri.N P Shanthakumar

ORDER

The accused side counsel has filed an application under Sec.45 of Bharathiya Sakshya Adhiniyama and Sec.293, 4(c), 243(a), 254(2) of BNSS.

2) The contention of accused is that, the accused is not due to the complainant for Rs.28,75,000/-. The accused has not issued any cheques in favour of complainant. The writings which are filled in the cheques are not belonged to accused. Hence, there is forgery on writings which are filled in the cheques by the complainant. Hence, prayed to refer the disputed handwriting on the alleged cheques to handwriting expert for their opinion.

3) On the contrary objection is filed by complainant and submitted that, the application is not sustainable. Hence, prayed to dismiss the application.

4) Heard the arguments of learned counsel for both sides.

5) Perused the materials on record. The points that arise for my consideration are :

POINTS

1. Whether is it just and necessary to refer the disputed handwriting on cheques to handwriting expert to compare with the admitted handwriting to give fair decision in the case?

2. What order?

6) My findings on the above points are as under:

Point No.1: In Negative

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

:-REASONS:-

7) **Point No.1:-** Admittedly the case is filed by complainant against accused for the offence punishable under Sec.138 of NI Act. The contention of complainant is that, accused is due of Rs.28,75,000/- to the complainant and issued cheques to repay the same, but it was got bounced. Hence, the case is registered against the accused.

8) Now the contention of accused is that, to refer the hand writings which are filled in cheques to the handwriting expert by stating that, those writings which are filled in cheques are not belonged to the accused. But, nowhere either in reply notice or in plea or in 313 statement accused has not denied with respect to signature on the cheques.

9) At this juncture this court relied upon case law which is decided by Hon'ble Apex Court in **Crl.Appeal.No.1260/2022 in Oriental Bank of Commerce V/s Prabodh Kumar Tewari**, wherein it is held that, *a meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, Sections 20, 87 and 139 makes it amply clear that a person who signs a cheque and makes it over to the payee remains liable unless he adduces evidence to rebut the presumption that the cheque had been issued for payment of a debt or in discharge of liability. It is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provisions of Section 138 would be attracted.*

10) The principle held in above case law is aptly applicable to the facts and circumstances of instant case on hand. It is because it is immaterial that, the cheques may have been filled in by any person other than the drawer, if the cheques are duly signed by the drawer. Hence, the contention of accused is not sustainable. More over the Bank had given endorsement that there is insufficient of funds. It shows the conduct of accused and the stage of case is almost completed. If the application is allowed, it is nothing but prolong of the case. In view of all these, in order to give fair decision it is not necessary to refer the writings which are filled up in the cheques to handwriting expert. Hence, I answer **Point No.1 is in Negative.**

11) **Point No.2:** For the reasons discussed above, I proceed to pass the following:

ORDER

Application which is filed under Sec.45 of Bharathiya Sakshya Adhiniyama and Sec.293, 4(c), 243(a), 254(2) of BNSS is hereby dismissed.

(Dictated to the stenographer directly on computer, typed by me, corrected and then pronounced by me in the open court on this 6th day of May 2026)

(ARUNA KUMARI A)

Prl.Senior Civil Judge and JMFC
Channarayapatna

