



IN THE COURT OF PRL CIVIL JUDGE AND JMFC.,
SAKALESH PURA.

:Present:

SRI. LAKSHMI NARASIMHA R.V, B.A.L., L.L.B.,

Prl. Civil Judge & JMFC., Sakaleshpura.

Dated this the 18th Day of June, 2026

C.C. No.549/2023

Complainant : **Sri. Shankargowda Patil**
S/o Linganagowda Patil,
Aged about 63 years,
R/at Near Sheenappashetty Kalyana
Mantapa,
Saraswathipuram Extension,
Sakaleshpura Taluk,
Hassan District.

[Represented by Sri. T.M.A, Adv.]

V/s



Accused : **Smt. H.N. Nirmala**
W/o Late B.K. Shivakumar,
Aged about 50 years,
R/at Near Sheenappashetty Kalyana
Mantapa,
Saraswathipuram Extension,
Sakaleshpura Taluk,
Hassan District.

[Represented by Sri. P.N., Adv.]

1. Offence complained of : U/Sec 138 of NI Act
2. Plead of accused : Pleaded not guilty
3. Final order : Accused is Convicted

JUDGMENT

This case is registered under section 200 of Cr.P.C.,
written complaint made by the complainant against the
accused for the offence punishable under section 138 and 142
of Negotiable Instruments Act, 1881.



2. The case of the complainant is that the accused is known to him for few years. The accused has approached the complainant on 30.04.2022 for financial assistance for personal reason and family necessities. Conceding the request made by the accused, the complainant has lent a sum of Rs.2,00,000/- on 30.04.2022 by way of cheque drawn on Bank of Baroda. The accused has sought for one year time to repay the said amount. Thereafter, the accused issued a cheque bearing No. '538788' dated 16.01.2023 drawn on State Bank of India, Sakaleshpura Branch for Rs. 2,00,000/- for encashment.

3. Further, the complainant presented the same with banker, the same was returned unpaid on account of '**Funds insufficient**' vide endorsement dated 19.01.2023. Thereafter, she has issued legal notice dated 27.01.2023 calling upon the accused to pay the amount covered under the cheque in



question. The accused is in receipt of the same. The accused has replied the notice by taking untenable contentions. As such the complainant constrained to file the present complaint.

4. On presentation of the complaint, this court has taken cognizance of the offence punishable under section 138 of NI Act. After issuance of summons, the accused has appeared before the court and got enlarged on bail. Substance of accusation was read over and explained to her, she pleaded not guilty and claimed to be tried. Hence, the case is posted for trial.

5. The complainant in order to prove his case, he got examined as PW.1 by filing affidavit in lieu of examination in chief and got marked the documents at Ex.P1 to Ex.P9. After closure of the complainant's evidence, accused statement was recorded as contemplated under section 313 Cr.P.C. The



accused has denied the incriminating circumstances found against her and submitted that she would lead defence evidence. Accordingly, the accused got examined herself as DW-1 and got marked documents at Ex.D1 to 12. One witness by name Vishwanath got examined as DW-2.

6. Heard both the sides and perused the materials on record.

7. On basis of the materials of record, the following points would arise for determination:

- 1.** Whether the complainant proves that the accused is liable to pay a sum of Rs. 2,00,000/- under the cheque was in discharge of the legal liability. As cheque was dishonored and even after service of notice, the accused has failed to arrange for the same and thereby committed an offence punishable under section 138 of NI Act?



2. What order?

8. My answers to the above said points are as follows:

Point No.1 : In the *Affirmative*

Point No.2: As per final order

for the following;

::REASONS::

9. **Points No.1::** The case of the complainant is that in order to discharge the legal liability, the accused has issued a cheque bearing No.'538788' dated 16.01.2023 drawn on State Bank of India, Sakaleshpura Branch for Rs. 2,00,000/- for encashment. The complainant has presented the cheque with her banker, which came to be returned as '**Funds insufficient**' vide endorsement dated 19.01.2023. As such she got issued a legal notice on 27.01.2024 and the said notice is served on the accused on 28.01.2024. Even after issuance of



notice, the accused has failed to make any arrangement for repayment.

10. At enquiry, the complainant got examined as PW.1 and filed affidavit in lieu of examination in chief by reiterating the complaint averments. The complainant has placed exhibits namely Ex.P1 is the Cheque bearing No.'538788' dated 16.01.2023, Ex.P.2 is the endorsement dated 19.01.2023 issued by Bank of Baroda, Sakaleshpura, Ex.P3 is the legal notice dated 27.01.2023, Ex.P4 is the postal receipt, Ex.P.5 is the Postal acknowledgment, Ex.P.6 is the reply notice, Ex.P.7 is the Final withdrawal intimation letter issued by Assistant Accounts Officer, AG (A & E), Karnataka, Bengaluru, Ex.P.8 is the Accounts statement, Ex.P.9 is the Bank Pass Book.

11. PW.1 in the cross examination has deposed that, he was working as teacher at Sakaleshpura and retired from



the service. As on the date of retirement he was drawing salary of Rs. 62,000/-. He had maintained his salary account at Bank of Baroda and thereafter transferred Canara Bank. The accused got introduced through his wife. The accused was the neighbor and known to him since 30 years. That on 30.04.2022, the accused came to his house and availed the loan of Rs. 2,00,000/- he has paid the same by way of the cheque.

12. He has further deposed that the accused issued Ex.P.1 cheque on 01.01.2023 by signing the cheque. He has denied the suggestion that the signature and handwriting on the cheque are different and he has filled the cheque and presented the bank. He does not know as to the complaint and notice issued by the accused in favour of the banks and police station and also the paper publication. He has denied all other



suggestions made by learned counsel for the accused.

13. After recording of statement of accused under Section 313 of Cr.P.C, the accused submitted that she would lead the defense evidence. Thus, the case was posted for defence evidence. The accused got examined herself as D.W.1 and got marked documents at Ex.D1 to 12. In the chief examination, she has deposed that, she does not know about the complainant and she has not availed loan from the complainant. The complainant had issued notice and she has also replied to the same. She had lodged complaint and paper publication by stating that her cheques were found missing. She had sustained a road accident in the year 2017 and at that time she had availed some loans. One Gopinath has misused the cheques and filed the cases through various persons. The accused had also issued notice to the bank to



stop payment. Ex.P.1 cheque is belonging to her but hand writing does not belong to her. Accordingly, prayed to dismiss the case.

14. In the cross examination, she has deposed that, the complainant is her neighbor and he was working as teacher. She has lodged police complaint and paper publication for having lost the cheques. She had availed loan from the said Gopinath and repaid the said loan, but he has not returned the cheques back to her. She has also lodged the complaint against the said Gopinath. She has denied the suggestion that she has not contented anything about the lost cheques and the said Gopinath in her reply notice. She has denied the suggestion that she had availed a sum of Rs. 2,00,000/- from the complainant and thereafter issued Ex.P.1 cheque. Ex.P.1 cheque and the signature belongs to the accused. She has



denied all other suggestions made by the learned counsel for the complainant.

15. DW-2 in his chief examination has deposed that the accused sustained a road accident in year 2017, he had been to Janapriya Hospital, Bengaluru at that time the husband of the accused and the said Gopinath were quarreling on financial issues. At that time, the said Gopinath snatched the bag of the accused which consists of cheque books of 3-4 banks belonging to accused. The said Gopinath informed that he would returned the same after repayment of loan. Now, he has misused the cheques and filed through complainant.

16. In the cross examination, he has deposed that the accused is his relative. He went to Janapriya Hospital, Hassan after 3 days of the accident. At that time, the husband of accused and Gopinath were quarreling. But he did not pacify



the quarrel. The husband of complainant has not lodged any case. The bag was consists of Karnataka Bank, SBI Bank and other banks cheque books belonging to accused. The said Gopinath has snatched the bag including the cheque books. He has denied all other suggestions made by the learned counsel for the complainant.

17. The main contention of the accused is that she had sustained a road accident in the year 2017 and availed loans. One Gopinath has misused the cheques and filed the cases through various persons. She has also deposed that she has issued notices to the bank to stop payment and also paper publication for having lost the cheques. It is to note here that upon receipt of legal notice at Ex.P.3, the accused has replied to the notice through her counsel at Ex.P.6. On perusal of the reply notice, the accused has taken that contention that she



had availed loan from various persons and issued various cheques towards security and thereafter she has repaid the said loan. Further, the accused has also not suggested anything about the said contention the cross examination of PW-1. For the first time in her chief examination she has deposed the said facts, which is nothing but contradictions and improvements. She had sustained a road accident in the year 2017. The various persons have misused the cheques inspite of repayment of the loans and demanded for monies. Nowhere in the reply notice she has contended about the said Gopinath and with respect to lost of the cheques. For the first time, the accused in the cross examination of PW-1 has brought the name of said Gopinath and lost cheques. The accused has not explained anything as to what impediment has caused her to contend the same in the reply notice at Ex.P.6.



18. Further, one Vishwanath got examined as DW-2 and deposed about the quarrel between the said Gopinath and husband of the accused alleged to have been occurred at Janapriya Hospital, Hassan. DW-2 has deposed that he is the far relative of the accused. The husband name of the accused is Chandrashekar. But, as contended by the accused her husband name is Shivakumar but not Chandrashekar. Secondly, he has deposed that after three days of accident he went to hospital. Whereas, the accused has not produced any documents to show that she had admitted to hospital with history of alleged accident. Thirdly, DW-2 has gone to the extent that the said Gopinath has snatched the bag which consists of 3-4 cheque books from the possession of husband of the accused. Whereas, no action has been taken inspite of such untoward incident. Moreover, as stated supra the accused herself has not stated anything about the said act in her reply notice at initial



stage. Hence, this court is of the opinion that the accused for the first time in the cross examination of PW-1 and in her defence evidence has taken the contention of the said Gopinath. Hence, it does not inspire any confidence with respect to the contention raised by her.

19. Further, it appears that the accused has issued letter to the bank officials of various banks on 29.12.2022 by taking contention that she had sustained a road accident in the 2017 and few persons have misused the cheques inspite of repayment of loan. When she had sustained accident in the year 2017, what impediment has caused her to issue notice to the banks to stop payment immediately and why she has issued notice just before presentation of the cheques has not been explained by the accused. Hence, the contention of the accused holds no water. As such, this court is of the opinion



that, the different version of the accused is not sustainable.

20. Another contention of the accused is that the complainant has filled up the cheque as there is difference between the signature and hand writing. The Hon'ble Supreme Court of India in a decision reported in **2021 SCC OnLine SC 75 (Kalamani Tex & anr V/s P.Balasubramanian)** has held that ***“Even if we take the arguments raised by the appellants at face value that only a blank cheque and signed blank stamp papers were given to the respondent, yet the statutory presumption cannot be obliterated”*** The Hon'ble Apex Court in the said judgment has referred the decision reported in **(2019) 4 SCC 197 (Bir Singh V/s Mukesh Kumar)** wherein it is held that ***“Even a blank cheque leaf, voluntarily signed and handed over by the accused,***



which is towards some payment, would attract presumption under Section 139 of the Negotiable Instruments Act, in the absence of any cogent evidence to show that the cheque was not issued in discharge of a debt.” In the case on hand, the accused in the reply notice has stated that she had availed loans and issued cheques in favour of various persons. Under such circumstances, the contention of the accused cannot be considered. Hence, this Court is of the opinion that the accused has failed to rebut the presumption as contemplated under section 139 of NI Act.

21. At this stage this court would like to mention that in order to constitute an offence under Section 138 of the Negotiable Instruments Act, 1881 the following ingredients are required to be fulfilled;



- i. A person must have drawn a cheque on a account maintained by him in a bank for payment of a certain amount of money to another person from out of that account;*
- ii. The cheque must have been drawn for discharge of existing debt or liability.*
- iii. Cheque must be presented within 3 months or within validity period whichever is earlier.*
- iv. Cheque must be returned unpaid due to insufficient funds or it exceeds the amount arranged.*
- v. Fact of dishonour be informed to the drawer by notice within 30 days.*
- vi. Drawer of cheque must fail to make payment within 15 days of receipt of the notice.*



22. Keeping in view of above ingredients, if the present case is discussed, as per Ex.P.8 and 9, it discloses that the complainant had maintained sufficient income and on 30.04.2022. He has paid a sum of Rs. 2,00,000/- by way of cheque. It is clear that the accused has issued the cheque dated 16.01.2023 in favour of the complainant at Ex.P1. The cheque issued is for the discharge of debt liability. Accordingly, the holder of cheque has presented the same with her banker, the same returned as 'funds insufficient' on 19.01.2023 at Ex.P2. Thereafter on 27.01.2023, she has issued the notice calling upon the accused to repay the said amount at Ex.P3. The same has been served on accused at Ex.P.5. The accused has also issued reply notice, whereas she has failed to prove the contentions of the reply notice. Thus, it is clear that the complainant has succeeded to comply all the ingredients of section 138 of the NI Act.



23. Keeping in view of above facts and decisions, this court is of the opinion that the complainant has succeeded in proving his case with cogent materials. The accused has failed to rebut the presumption either in the cross examination of Pw.1 or in the defence evidence. Further, the materials placed on record are not substantial so as to disprove the presumption under section 139 of NI Act. Accordingly, point No.1 is answered in the ***Affirmative.***

24. **Point No.2::** In view of the above discussion for point No.1, the accused is liable to be convicted for the offence punishable under section 138 of NI Act. Hence, this court proceeds to pass the following;

::ORDER::

Acting under section 255(2) of Cr.P.C. accused is hereby convicted for the offence punishable under section 138 of Negotiable Instruments Act.



The accused is sentenced to pay fine of Rs.2,05,000/- within two month from this day.

In default to pay the fine, the accused shall undergo simple imprisonment for a period of four months. Even if the accused undergoes imprisonment in default to pay the fine amount, the fine is still recoverable in view of provision to section 421 of Cr.P.C.

It is further ordered that out of the fine amount, a sum of Rs.2,00,000/- shall be paid to the complainant as compensation under section 357 of Cr.P.C.

The rest of the amount Rs.5,000/- is ordered to be adjusted to the State Exchequer.

The bail bond of accused and surety



shall stands canceled automatically on
payment of the entire amount.

Office is directed to supply a free copy of
judgment to the accused.

[Dictated to the stenographer directly on computer and then corrected by me and
thereafter pronounced in the open court on this the 18th day of June, 2026]

[Lakshmi Narasimha R.V,]
Prl. Civil Judge and JMFC,
Sakaleshpura.

::ANNEXURE::

List of witnesses examined for the complainant:

PW1 : Sri. Shankargowda Patil

List of documents exhibited for the complainant:

Ex.P1 : Cheque
Ex.P1(a) : Signature of accused
Ex.P2 : Endorsement
Ex.P3 : Legal notice
Ex.P4 : Postal receipt
Ex.P5 : Postal Acknowledgment



- Ex.P6 : Reply Notice
- Ex.P7 : Final withdrawal intimation letter
issued by Assistant Accounts Officer,
AG (A & E), Karnataka, Bengaluru
- Ex.P8 : Account Statement
- Ex.P9 : Pass Book

List of witnesses examined for the defence:

- DW-1 : Smt. H.N. Nirmala
- DW-2 : Sri. Vishwanatha

List of documents exhibited for the defence :

- Ex.D1 : Reply Notice
- Ex.D2 : Postal receipt
- Ex.D3 : Postal acknowledgment
- Ex.D4 : Certified copy of Paper Publication
- Ex.D5 : Certified copy of Reply notice
- Ex.D6 to 12 : Certified copy of 7 Postal
Acknowledgments

[Lakshmi Narasimha R.V.]
Prl. Civil Judge and JMFC,
Sakaleshpura.