IN THE COURT OF PRL CIVIL JUDGE AND JMFC.,

SAKALESHPURA.

:Present:

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

Prl. Civil Judge & JMFC., Sakaleshpura.

Dated this the 10th Day of July, 2026

C.C. No.1974/2024

Complainant : **Smt. Chandrakala C.P.**
W/o Lakshmegowda,
Aged about 45 years,
R/at Kudugarahalli village,
Halasulige Post,
Sakaleshpura Taluk,
Hassan District.

[Represented by Sri. S.V.S., Adv.]

V/s

Accused : **Sri. Channaraju S/o Late Ramaiah,**
Aged about 64 years,

R/at Kudugarahalli Badavane,
Beside Miltary Camp,
Halasulige Post,
Sakaleshpura Town,
Sakaleshpura Taluk,
Hassan District.

[Represented by Sri. M.S.M., 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 223 of BNSS., 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 and complainant are known to each other. The accused has approached the complainant on 04.03.2024 for financial assistance of Rs.2,00,000/- to discharge the house loan. Conceding the request made by the accused, the complainant has lent a sum of Rs.2,00,000/- by way of cash and on the same day, the accused issued cheque bearing No. '311171' dated 01.07.2024 drawn on State Bank of India, Sakaleshpura Branch for encashment.

3. Further, the complainant presented the same with banker, the same was returned unpaid on account of '**Funds Insufficient' and 'Drawer's signature differs'** vide endorsement dated 03.07.2024 issued by State Bank of India, Sakaleshpura Branch. Thereafter, she has issued legal notice dated 03.07.2024 calling upon the accused to pay the amount covered under the cheque in question. The accused is in receipt of the same on 08.07.2024. Inspite of the same, the accused has neither replied nor complied with the notice. 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 him, he pleaded not guilty and claimed to be tried. Hence, the case is posted for trial.

5. The complainant in order to prove her case, she got examined as PW.1 by filing affidavit in lieu of examination in chief and got marked the documents at Ex.P1 to Ex.P5. After closure of the complainant's evidence, accused statement was recorded as contemplated under section 351 of BNSS. The accused has denied the incriminating circumstances found against him and submitted that he would lead defence evidence. Whereas inspite of sufficient opportunity, he has not adduce any evidence nor produced any documents.

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:

<u>Point No.1 :</u> In the ***Affirmative***

<u>Point No.2:</u> As per final order for the following;

<u>::REASONS::</u>

9. <u>Points No.1::</u> The case of the complainant is that in order to discharge the legal liability, the accused has issued a cheque bearing No. cheque bearing No. '311171' dated 01.07.2024 drawn on State Bani of India, Sakaleshpura Branch for encashment. The complainant has presented the cheque with her banker, which came to be returned as **'Funds insufficient' and 'Drawer's Signature differs'** vide endorsement dated 03.07.2024. As such she got issued a legal notice on 03.07.2024 and the said notice is served on the accused. 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.'311171' dated 01.07.2024, Ex.P.2 is the endorsement dated 03.07.2024 issued by State Bank of India, Sakaleshpura Branch, Ex.P3 is the legal notice dated 03.07.2024, Ex.P4 is the postal receipt, Ex.P.5 is the Postal acknowledgment.

11. PW.1 in the cross examination has deposed that, the accused is known to her since 5-6 years. The accused was a retired employee of Forest Department. He has started to construct the house in the year 2019. That on 04.03.2024 he borrowed the loan on the pretext of construction of the house. She has given the loan to the accused by way of cash. She is having agricultural income and also availed loans from various societies. She has denied the suggestion that accused has not signed the cheque. She had contacted the accused on 04.07.2024 and 05.07.2024 and informed about non encashment of the cheque. The signature and the writing on the cheque in question is different. PW-1 has denied the suggestion that the accused had lost the cheque at the time of shifting the materials from old house to new house and the complainant has filed the present case by misusing the cheque. She has denied the suggestion that she has lent the monies for interest. She has also denied that suggestion that the accused has repaid the loan, whereas the complainant has not returned back the cheque to him. She has denied all other suggestions made by the learned counsel for the complainant.

12. The main contention of the accused is that at the time of shifting the materials from old house to new house, the accused had lost the cheque and the complainant has filed this case by misusing the cheque. Whereas, the accused has not produced any documents to that effect. Further, the accused has suggested PW.1 that he had borrowed loan of Rs.2,00,000/- with interest from the complainant. Inspite of repayment of loan, the complainant has not returned back the cheque. Thus, the accused has categorically admitted that he has borrowed loan of Rs.2,00,000/- from the complainant. At the same time, though the accused has suggested that he has repaid the loan to the complainant, he has not produced any documents to that effect. As such, the contention of the accused cannot be considered.

13. 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, as stated supra, the accused himself admitted that he has borrowed loan from the complainant and issued the cheque. As such, 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.

14. 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.

15. Keeping in view of above ingredients, it is clear that the accused has issued the cheque dated 01.07.2024 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' and 'Drawer's signature differs' on 03.07.2024 at Ex.P2. Thereafter on 03.07.2024, the complainant 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. Thus, it is clear that the complainant has succeeded to comply all the ingredients of section 138 of the NI Act.

16. Keeping in view of above facts and decisions, this court is of the opinion that the complainant has succeeded in proving her 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.***

17. **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 278(2) of BNSS., accused is hereby convicted for the offence punishable under section 138 of Negotiable Instruments Act.

The accused is sentenced to pay fine of Rs. 2,55,000/- within one 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.2,50,000/- 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 10th day of July, 2026]

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

::ANNEXURE::

List of witnesses examined for the complainant:

PW1	:	Sri. Chandrakala C.P.

List of documents exhibited for the complainant:

Ex.P1	:	Cheque
Ex.P2	:	Endorsement
Ex.P3	:	Legal notice
Ex.P4	:	Postal receipt
Ex.P5	:	Postal Acknowledgment

List of witnesses examined for the defence:

-NIL-

<u>List of documents exhibited for the defence</u> :

-NIL-

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