KABC0C0273172023

Presented on : 16-10-2023
Registered on : 16-10-2023
Decided on : 09-07-2026
Duration : 2 years, 8 months, 24 days

**IN THE COURT OF XIV ADDL.CHIEF JUDICIAL MAGISTRATE, MAYO HALL UNIT, BENGALURU**

**Dated: This the 09th day of July, 2026**

**Present:**

**Smt. Reshma H.K., B.A.,LL.B.,**
**XIV ACJM, Bengaluru**

**C.C.No.59521/82023**

Complainant : Health & Glow Private Limited,
A company incorporated under the provisions of the Companies Act, 1956.
Having its registering office at No.32/5, 2nd Floor, Ganapa Tower, NGR Layout, Roopena Agrahara, Bommanahalli,
Bengaluru-560 068.

By its authorized representative
Mr.Sachith Anthony.

(By M/s.**Frontier Legal,** Adv)

**V/s**

Accused : Mr.Navanichandra,
S/o Late Muniyalappa,
R/at No.1/1, Turubarahalli Village,
Varthur Hobli, Whitefield Post,
Bengaluru East Taluk,

Bengaluru-560 066.

(By Sri.**H.K.H.,** Adv.)

**J U D G M E N T**

This is the complaint filed by the complainant under section 200 of Cr.P.C., against the accused for the offence punishable under section 138 of Negotiable Instruments Act and to take cognizance of the offence to punish the accused in accordance with law.

2. The factual matrix of the complaint is that complainant is a company incorporated under the provision of Companies Act, 1956 and represented by its authorized person. The complainant and the accused had entered into a lease agreement dated 28.08.2017 with respect to the lease of commercial property bearing Sy.No.1 & 2, site No.1, BBMP Khata No.195/147 ward No.84, Tubarahalli Village, Whitefield Main Road, Bengaluru. As per the terms of the said agreement complainant was supposed to pay a rent of Rs.50,225/- and the security deposit amount of Rs.15,00,000/- and the duration for the said agreement is 01.09.2017 to 30.09.2025. Further, the

complainant and the accused along with the Mysore Silk Cloth Merchants Co-operative Bank Limited, entered into a tripartite agreement dated 27.06.2018 where it was agreed that the accused would remit the rent collected on the leased premises to The Mysore Silk Cloth Merchants Co-operative Bank Limited, since, the accused had obtained loan, mortgaging the lease premises in favour of the said society. The said agreement was operative until the accused had discharged his liability. It is submitted that the complainant and accused entered into a supplementary agreement dated 21.06.2018, to mark the change in the name of the complainant company, however the terms of lease remained the same. The complainant paid its rent on time and also paid all the necessary charges. However, due to less footfall and drop in sales, the complainant suffered losses and ultimately had to terminate the agreement vide termination notice dated 31.05.2022. In the said notice, the complainant had made it clear that during the notice period, rent payable by the complainant should be deducted from the security deposit and the balance security deposit amount was to be returned to the complainant upon handing over the vacant possession of the leased premises. Accordingly, accused was due to pay an amount of Rs.12,60,000/- after making deductions from the security deposit. Further, in order to clear the above dues the accused has issued a cheque bearing No.000210 dated:22.04.2023 for an amount of Rs.12,60,000/- drawn on Karur Vysya Bank, Whitefield Branch, Bengaluru, in favour of complainant.

3. Further, the complainant has presented the above said cheque for encashment through his banker i.e., ICICI Bank, Bommanahalli branch. But, the said cheque returned unpaid with an endorsement **'funds insufficient'** as per bank memo dated:11.07.2023. Immediately reached out to the accused, demanding payment of the amount due to them. However, despite repeated follow-ups, the accused failed to clear the outstanding amount. Thereafter, the complainant issued legal notice dated:01.08.2023 to the accused through R.P.A.D calling upon him to pay the amount covered under the cheque within the stipulated period and the same was served to accused on 03.08.2023. Inspite of service of notice, accused failed to repay the amount covered under the cheque. Hence, the complainant filed the present complaint against the accused for the offence

punishable under section 138 of Negotiable Instrument Act.

4. This court after perusing records, cognizance of the offence was taken and there on sworn statement of the authorized representative of the complainant was also recorded. The criminal case has been registered against the accused for the offence punishable under section 138 of N.I. Act.

5. Upon service of summons, accused appeared through his counsel and enlarged on bail. Thereafter, the court has recorded the plea of the accused and he did not pleaded guilty of the offence and claims to be tried. Hence, the case was posted for trial.

6. The complainant in order to prove his case, he himself examined as PW.1 and got marked 09 documents i.e., Ex.P-1 to Ex.P-09. Original Cheque marked as Ex.P.1, Signature of accused marked as Ex.P.1(a), Return Memo marked as Ex.P.2, Legal Notice marked as Ex.P.3, Postal receipt marked as Ex.P.4, track consignment report marked as Ex.P5, e-mail copy marked as Ex.P6, certificate of incorporation marked as Ex.P7, board resolution marked as Ex.P8 and Section 65(B) certificate marked

as Ex.P9.

7. After completion of the evidence of complainant, the substance of the evidence has been read over and explained to the accused under section 313 of Cr.P.C. the accused is denied the incriminating evidence available against him and choosed to lead evidence on his behalf, but failed to adduce evidence on his behalf.

8. Heard arguments and perused the materials placed before the court. The following points would arise for consideration.

1. ***Whether the complainant proves that the accused issued Cheque bearing No.000210 dated:22.04.2023 for the legally enforceable debt of Rs.12,60,000/-, in favour of complainant and it was presented within the validity period and same is returned unpaid on account of "funds insufficient" and thereby caused the dishonor of cheque and inspite of legal notice, the accused fail to make payment and thereby committed an offence punishable under section 138 of Negotiable Instrument Act?***

***2. What Order?***

9. My findings on the above points are as under:-

Point No.1: In the "**Affirmative**"

Point No.2: As per the final orders for the following:

## BRIEF STATEMENT OF REASONS FOR THE DECISION

10. **Point No.1:** The definite case of the complainant is that with respect to returning of amount, accused issued a cheque bearing No.000210 dated:22.04.2023 for an amount of Rs.12,60,000/- drawn on Karur Vysya Bank, Whitefield Branch, Bengaluru, in favour of complainant. Further, the complainant has presented the above said cheque for collection, but the cheque was dishonored for **'funds insufficient'**. It is further the case of the complainant is that inspite of several requests, the accused has not repaid the amount and hence, he has issued legal notice and the same was served to accused. Inspite of service of notice, accused failed to repay the amount covered under the cheque. Hence, the accused has committed the offence punishable under section 138 of Negotiable Instrument Act.

11. Further, in order to prove the guilt of the accused for offence under section 138 of Negotiable Instruments Act, 1881, the complainant is required to prove the following ingredients beyond reasonable doubt:

(i) Accused had issued a cheque in favor of complainant.

(ii) The said cheque has been issued in discharge of a debt or liability and is for consideration.

(iii) The said cheque has been dishonored on presentation.

(iv) Accused has failed to make payment of cheque amount within statutory period of service of legal notice served to him by complainant.

12. To prove the case of the complainant, the complainant himself examined as PW.1 in the form of affidavit and reiterated almost all the contents of complaint averments once again and got marked the documents as Ex.P.1 to P.09. Further, it could be seen from the contents of Ex.P.1 to P.09 that the cheque issued as per Ex.P.1 by the accused in favour of complainant and the same was dishonoured on 11.07.2023 for “funds insufficient” as per Ex.P2. It could be further seen that the complainant issued legal notice as per Ex.P.3 to the accused and

the same was served to accused as per Ex.P.5.

13. On the other hand, accused did not choose to lead evidence on his behalf, but cross-examine the PW-1 as follows:-

> ***“ನಾನು ಕಾನೂನು ಪದವೀಧರನಿರುತ್ತೇನೆ. ದೂರುದಾರ ಕಂಪನಿಯಲ್ಲಿ ನಾನು ಸೆಪ್ಟೆಂಬರ್ 2022 ರಿಂದ Legal Manager ಆಗಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದೇನೆ. ದೂರುದಾರ ಕಂಪನಿಯ ಕಟ್ಟಡಕ್ಕೆ ಹೆಚ್ಚುವರಿಯಾಗಿ 20 ಹೆಚ್.ಪಿ ವಿದ್ಯುತ್ ಬೇಕಾಗಿದೆ ಎಂದು ನಾವು ಆರೋಪಿಗೆ ಕೇಳಿದ್ದೇವೆಂದರೆ ಸರಿಯಲ್ಲ. ಆದರ ಬಾಬ್ತು ನಮ್ಮ ಕಂಪನಿಯಿಂದ ಬೆಸ್ಕಾಂಗೆ ರೂ3,00,000/- ವರ್ಗಾವಣೆಯಾಗಿತ್ತೆಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ದಿ.28.08.2017 ರ ಕರಾರಿನ ಪ್ರಕಾರ ಲೀಸ್ ಅವಧಿ ದಿ.01.09.2017 ರಿಂದ ದಿ.30.09.2025 ರವೆಗೆ ಇರುತ್ತದೆಂದರೆ ಸರಿ. ಆರೋಪಿಯಿಂದ ಲೀಸ್ ಗೆ ಪಡೆದ ಕಟ್ಟಡದ ವಿಸ್ತೀರ್ಣ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಆ ಕಟ್ಟಡದ ಬಾಬ್ತು ಆರೋಪಿಗೆ ರೂ.15,00,000/- ಗಳನ್ನು ಸೆಕ್ಯುರಿಟಿ ಡೆಪಾಸಿಟ್‌ಕೊಟ್ಟಿದ್ದೇವೆ.”***

14. The above contents of cross-examination clearly shows the tenant and landlord relationship between the complainant and accused. Furthermore, during the course of proceedings both complainant and accused filed their joint memo of compromise and the order sheet dated 17.06.2025, 09.10.2025, 24.12.2025 and 06.02.2026 shows that accused paid Rs.6,00,000/- to the complainant and remained with balance of Rs.5,00,000/-. Thereafter, accused failed to pay the entire amount as agreed. This partial payment is very much established the acknowledgment of accused regarding his liability on

payment of Ex.P1 cheque amount.

15. As per the above evidence, the accused admitted the Ex.P.1/Cheque as same is belongs to his bank account. Under the circumstances, it is worth to mention that once the cheque relates to the account of the accused, then initial presumption as contemplated under section 139 of the N.I.Act has to be raised by the court infavour of the complainant. Further, in a decision the Hon'ble Apex court, reported in **AIR 2010 SC 1898** in a case of **Rangappa V/s Mohan** the Hon'ble Apex Court held that:-

> ***"Once the cheque relates to the account of the accused and he accepts and admits the signatures on the said cheque, then initial presumption as contemplated under section 139 of the Negotiable Instruments Act has to be raised by the Court in favour of the complainant. Therefore, in view of above said deposition, a presumption under section 139 of Negotiable Instruments Act can be drawn in favour of complainant that the said cheque was issued for a valid consideration. Now it is for the accused to rebut the said presumption. It is a settled law that though the onus on the accused to rebut the***

> ***presumption is that of preponderance of probabilities but still the accused is required to adduce cogent evidence to rebut the presumption. Mere assertions and explanations of fact in the Court will not amount to rebuttal of presumption. In order to rebut the presumption under section 139 of N.I. Act, the accused by cogent evidence, has to prove the circumstance under which cheque was issued.***

16. As per the above decision of the Hon'ble Apex Court, when accused admitted the cheque and its signature on the said cheque, then the burden shifted to the accused to prove that under which circumstances the cheque has been issued to the complainant. Hence, in the present case, complainant is successful in drawing initial presumption available in his favour.

17. More so, the complainant succeeded in drawing above stated statutory presumption in his favour. Furthermore, on basis of the material evidence placed before the court, it clearly establishes that the accused had issued Ex.P.1/Cheque for an amount of Rs.12,60,000/- to the complainant and the said cheque presented and it was returned without honoring the same

on account of **"funds insufficient"** maintained in the account of the accused. Further on perusing the demand notice-Ex.P3 and Ex.P.4 and 5, the Postal Receipt and track consignment report, all these discloses that, inspite of the intimation of the dishonour of cheque accused failed to comply the demand made in the legal notice. All these facts clearly establishes that, accused committed an offence under section 138 of N.I. Act and accordingly, I answered this point in the **Affirmative**.

18. **Point NO.2:-** Having held the complainant has proved point No.1, the next aspect that arises for my consideration is regarding sentence to be imposed on the accused for having committed an offence punishable under section 138 of Negotiable Instrument Act. It could be seen from the materials that the accused had issued cheque on 22.04.2023 and made the complainant to suffer for want of funds in his hands so far about 03 years. So I am of the opinion that it is required to direct the accused to pay the compensation to the complainant and in that event only it will meet the ends of justice. Hence, for the foregoing reasons and finding to point No.1, I proceed to pass the following:

## ORDER

***By invoking the power conferred under section 255(2) of Cr.P.C., the accused is convicted and sentenced to pay a fine of Rs.14,86,000/- for the offence punishable U/S.138 of N.I. Act and in default to pay the fine amount the accused shall undergo simple Imprisonment for six months.***

***Further, the amount of Rs.6,00,000/- which is paid by the accused in favour of complainant during the course of proceedings is to be deducted out of the above said fine amount. Therefore, Acting under section 357(1)(b) of Cr.P.C. the remaining fine amount of Rs.8,86,000/- on recovery shall be paid to the complainant as compensation.***

***Bail bond and surety bond of the accused shall stand cancelled and cash surety amount of Rs.9,500/- deposited by the accused is hereby forfeited to the state.***

***Supply a free copy of this judgment to the accused.***

***Issue conviction warrant against accused.***

(Dictated to the Stenographer directly on computer, typed by her, corrected by me, signed then pronounced in the open court on this the 09th day of July, 2026.)

RESHMA H K
Digitally signed by RESHMA H K
Date: 2026.07.14 16:01:51 +0530

**(SMT.RESHMA H.K.)**
**XIV ACJM, BENGALURU**

## ANNEXURE

1. **List of witnesses examined on behalf of the complainant:**

PW-1 : Sachith Antony

2. **List of witnesses examined on behalf of the accused:**

'NIL'

3. **List of documents marked on behalf the complainant:**

| | | |
|---|---|---|
| Ex.P.1 | : | Original Cheque |
| Ex.P.1(a) | : | Signature of accused |
| Ex.P.2 | : | Return Memo |
| Ex.P.3 | : | Legal Notice |
| Ex.P.4 | : | Postal Receipt |
| Ex.P.5 | : | Track consignment report |
| Ex.P.6 | : | E-mail copy |

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| | | |
|---|---|---|
| Ex.P.7 | : | Certificate of incorporation |
| Ex.P.8 | : | Board resolution |
| Ex.P.9 | : | Section 65(B) certificate |

4. **List of documents marked on behalf of the accused:**

‘NIL’

RESHMA H K

Digitally signed by RESHMA H K
Date: 2026.07.14 16:01:39 +0530

**(SMT.RESHMA H.K.)**
**XIV ACJM, BENGALURU**