

Order on application filed U/sec. 311 of Cr.PC.

Learned counsel for the accused has filed application under Section 311 of Cr.P.C stating that the date on the cheque is in printed format as 200. Therefore, it appears that the cheque might have been printed between 2000-2009. In a cheque books printed after 2010, the printed format of date would be 20 only. In such cases account holder may fill the year as 2010 or 11 or 12 as the case may be. In order to establish that the cheque in question was printed between the year 2000 to 2009, examination of the Bank Manger is necessary. The State Bank of Mysore has been merged in State Bank of India on 01.04.2017. The cheque in question is dated 26.12.2017. In order to clarify the validity of the cheque, the Manager of the bank is to be examined in this case. If, the application is not allowed accused will be put to irreparable loss.

2. Learned counsel for the complainant has filed objection contending that the application has been filed to enquire about the year of issuance of cheque book and year of print. Until the cheque book is finished, no cheque book will be issued to the account holder. Hence, year of print on the cheque and

date of issue of cheque book does not hold any matter. In this case the cheque has been dishonored for a reason 'Funds Insufficient'. There are no grounds to allow the application. Hence, prayed to reject the application.

3. I have heard arguments and perused the materials placed on record.

4. Point that would arise for my consideration is as under;

1. Whether the accused has made out grounds to allow the application.

5. My answer to the above point is in the negative for the following;

REASONS

6. This is a complaint lodged under Section 200 of Cr.PC alleging the commission of offence punishable under Section 138 of N I Act. It is a case of the complainant that the accused has, in discharge of liability issued a cheque bearing No.148865 dated 26.12.2017 for sum of Rs.6,50,000/-, drawn on State Bank of Mysore, branch Mundgod. The cheque came to be dishonored for a reason 'Funds Insufficient'. Despite demand notice the accused has not paid the cheque amount and thereby committed the offence.

7. The accused has appeared through learned counsel. Now, the case is for arguments. The accused has been fully examined on 22.09.2022. Despite sufficient opportunity he has not chosen to lead further evidence. Hence, vide order dated 15.11.2022, further evidence of accused has been recorded as nil. On 29.11.2022 learned counsel for the complainant has canvasses his arguments. When the case is for arguments of accused, learned counsel for the accused has filed application under Section 311 of Cr.PC.

8. It is stated in the application that at the top right corner of the cheque, the format of year has been printed as 200 and hence, it appears that the cheque has been printed in between the year 2000-2009. Learned counsel for the accused has argued that the date mentioned in the cheque is 26.12.20017. When the year is mentioned as **20017** the bank would have dishonored the cheque for mentioning wrong date, but, the bank has dishonored the cheque for a reason 'funds insufficient'. Hence, it is necessary to examine the Bank Manager.

9. A perusal of document at Ex.P1 prima facie shows that at the top right-hand corner

of the cheque, in a place to write a date, it is printed as 200. In Ex.P.1 the date and month is written as 26-12 and the year is mentioned as 20017. It appears that, before the printed number 200, the number 17 has been written. A zero could have been struck out and the year could have been mentioned as 2017 in place of 20017.

10. It is a contention of the accused that the complainant has presented a post dated cheque before date. Such a suggestion has been made to PW.1 during the cross examination. It is no doubt true that, the post dated cheque is not payable till the date which is shown on the face of said document; it will only become cheque on the date shown on it and prior to that it remains a bill of exchange. In the instant case if the contention of the accused is considered to be correct, then a document at Ex.P.1 becomes a cheque only after 18000 years. No man can issue a posted dated cheque for the year 20017 or manipulate the date as 20017, as contented by learned counsel for the accused. It is just a clerical mistake, it appears. For that, to examine the Manger of Bank is not necessary as the cheque came to be dishonored for a reason 'Funds

Insufficient'. It is not a case of the accused there was sufficient funds in his account to honour the cheque.

11. A careful perusal of the application filed by learned counsel for the accused shows that the prayer column is left blank. The same is as under:

***“There for its humble prayed
that.....”***

There no proper relief claimed in the application. Contents of application show that an application is filed in a casual manner to drag the matter. Under such circumstances I am of the opinion that there are no grounds to allow the application. Hence, I proceed to answer the point under consideration in the negative and proceed to pass the following;

ORDER

Application filed under Section 311 of Cr.PC is hereby rejected.

For arguments by 21.08.2023.

Sd/-

**(Padmakar Vanakudre)
II Addl.Sr.Civil Judge & JMFC,
Ranebennur.**