

KAKD010014672025



**IN THE COURT OF THE PRINCIPAL DISTRICT &  
SESSIONS JUDGE, KODAGU-MADIKERI.**

**Present**

**Sri Hosamani Pundalik,**

Principal District and Sessions Judge,  
Kodagu-Madikeri.

Dated this the 9<sup>th</sup> day of March, 2026.

**Crl.R.P. No.118/2025**

**Revision Petitioner :**

Sri M.V.Punith,  
S/o Vasanth Kumar,  
Aged 35 years,  
R/o Yashaswi Theatre,  
Thyagaraja Colony,  
Shanivarasanthe,  
Kodagu District.

**(Rep.By Sri. B.S.Rudra Prasanna, Advocate.)**

**/ Versus /**

**Respondent :**

Sri B.N.Praveen Kumar,  
S/o B.S.Ningegowda,  
Aged 42 years,  
Prop. Sri Manjunath Shoe World,

KRC Circle, Shanivarasanthe,  
Kodagu District.

**(Rep. by Sri P.A.Pundarika, Advocate)**

**ORDER**

This is a revision petition filed by the petitioner under section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (Section 397 of Cr.P.C.,) feeling aggrieved and dissatisfied with the impugned order dated 26.09.2025 passed in CC No.458/2021 on the file of Senior Civil Judge and JMFC., Somwarpet dismissing the application filed by the petitioner under section 45 of the Indian Evidence Act for referring Ex.P1-Cheque to the Hand Writing Expert for examination of the signature of accused, in the interest of justice.

2. The case of the petitioner in brief is as under:

It is the case of the petitioner that the complainant has filed the complaint under section 138 of the Negotiable Instruments Act and he has produced the Ex.P1-cheque bearing No.219020 drawn

from the account bearing No.135100301000024 of Vijaya Bank, Changadahalli branch. Further, the accused has stated that PW1-complainant has fraudulently or by committing theft of the said cheque, has forged his (accused) signature on the cheque. Even the hand writings on the cheque, name, amount in words and numbers on the Ex.P1 are different. Further it is stated that if the application is allowed, no hardship will be caused to the complainant and prayed to allow the application for referring Ex.P1-Cheque to Hand Writing Expert for examination of the signature of accused, in the interest of justice.

3. Per contra, the complainant has filed objection contending that the accused has issued the cheque in his favour for discharge of his liability and therefore, there is no requirement for sending Ex.P1-Cheque to the Hand Writing Expert and prayed to reject the application.

4. Feeling aggrieved and dissatisfied with the impugned order on I.A. dated 26.09.2025 passed by the learned Senior Civil Judge and JMFC., Somwarpet, for referring Ex.P1-Cheque to Hand Writing Expert for examination of the signature of petitioner/accused, the petitioner/accused has preferred the present criminal revision petition on the following grounds:

That the impugned order on I.A. passed by the learned Magistrate is against law, facts and circumstances of the case. The learned Magistrate has erred in dismissing the application though the petitioner has made out a ground to refer the Ex.P1 and Ex.C2 to the hand writing expert for opinion regarding signature of the accused/petitioner. The learned Magistrate has erred in not considering the actual facts of the case which clearly establishes the case of the petitioner and ought to have allowed the application for referring the same to the hand writing expert. The learned Magistrate has erred in holding

that there is no merit in the application. The learned Magistrate ought to have allowed the application filed by the petitioner by considering the fact that the respondent has denied the signature in the Ex.P-1. The impugned order is otherwise bad in law. On these grounds, the petitioner prayed to set aside the impugned order on I.A. dated 26.09.2025 passed by the learned Senior Civil Judge and JMFC., Somwarpet and prayed to allow the revision petition, in the interest of justice.

5. After institution of the revision petition, the petition notice was issued to the respondent-complainant. In pursuance of issuance of notice, the respondent-complainant has appeared before the Court through his counsel.

6. Thereafter, I have heard the arguments advanced by the learned counsel for the Petitioner-accused and that of learned counsel for the respondent-complainant.

7. The points that would arise for my consideration in this case are as under:

- 1) Whether the impugned order dated 26.09.2025 passed by the learned Senior Civil Judge and JMFC., Somwarpet in C.C.No. 458/2021 is illegal, incorrect and suffers from impropriety and as such, the same is liable to be set aside?
- 2) What order?

8. My findings to the above points are as under:

Point No.1 : In the Negative

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

**REASONS**

9. **Point No.1:** It is pertinent to note that the complainant has filed private complaint against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act. After conclusion of the evidence on the side of the complainant, when the

matter was posted for evidence on the side of the accused, the accused-petitioner has filed the application under section 45 of the Indian Evidence Act for referring the Ex.P1-Cheque along with Ex.C2 to the Hand Writing Expert for opinion stating that the complainant has forged the signature of the accused on the cheque. Further it is stated in the application that PW1-complainant has fraudulently or by committing theft, he has forged the signature of the accused in the said Ex.P1-cheque and prayed to allow the application.

10. Per contra, the complainant has filed objection contending that the accused has issued the cheque in his favour for discharge of his liability and therefore, there is no requirement for sending Ex.P1-Cheque to the Hand Writing Expert and prayed to reject the application.

11. It is pertinent to note that there is no dispute that the prosecution is for the offence punishable

under section 138 of the N.I.Act. The complainant is required to prove issuance of cheque by the accused on the account maintained by him and dishonour of cheque. The complainant is required to prove that the accused has failed to discharge the liability despite issuance of statutory notice. If the complainant discharges his burden, then the accused gets right of rebuttal. In the instant case, the accused has not disputed issuance of cheque and his signature on the cheque. The accused in his Ex.P7-Reply notice dated 10.11.2021 at Para No.3 has specifically admitted that in the month of October 2020 he had availed the hand loan and at the time of said hand loan, he has issued a signed blank cheque in favour of the complainant. When the matter was posted for defence evidence, the accused has filed application for sending the cheque for hand writing expert contending that the complainant has fraudulently and by committing theft, has forged the signature of the accused in the cheque.

It is pertinent to note that once the accused admitted issuance of cheque and his signature on the cheque, he is not entitled to contend that the complainant has forged his signature on the cheque. It is pertinent to note that the accused has admitted his signature on the cheque stating that he has issued the blank cheque. Merely because the cheque was blank when issued does not render it unenforceable in law in view of the specific provision of section 20 of the N.I.Act. The decision reported in **2020 SCC Online Bom 5702** in the case of **Subhash Ankush Chaudhari Vs. Yogesh Dnyaneshwar Kurhe and Another** wherein the Hon'ble High Court of Bombay dismissed the Criminal Writ Petition observing that it is not in dispute that the signature on the cheque belongs to the accused. There is no need to write other particulars by the accused. Cheque can be prepared by anybody and what is relevant is the signature on the cheque. When the signature is not disputed by the accused, there is no

point in sending the cheque for opinion of the Hand Writing Expert. In the instant case, the accused has admitted issuance of cheque and also his signature. Therefore, the question of referring Ex.P1-Cheque to the Hand Writing Expert does not arise when the accused admitted the issuance of cheque as per Ex.P1 and signature on the Cheque. Under the circumstances, it can be said that the learned Magistrate has rightly dismissed the application by giving cogent reasons. Therefore, in view of the facts and circumstances of the case and materials available on record, I hold that the revision petitioner has failed to prove that the impugned order dated 26.09.2025 passed by the learned Senior Civil Judge and JMFC., Somwarpet in C.C.No. 458/2021 is illegal, incorrect and suffers from impropriety and the same is liable to be set aside. Hence, I answered **point No.1 in the Negative.**

12. **Point No.2**:- In view of my finding on Point No.1, I proceed to pass the following:

**ORDER**

The Criminal Revision Petition filed by the revision petitioner under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 397 of Cr.P.C.,) is rejected.

File be consigned to the record room.

(Dictated to the Steno Grade-I directly on the computer, the same is corrected, signed and then pronounced by me in the open Court, this the **9<sup>th</sup> day of March, 2026**).

Sd/- xxx

**(Hosamani Pundalik)**

Principal District & Sessions Judge,  
Kodagu-Madikeri.