

ORDER

Heard the arguments of Learned Counsel for Appellant on I.A.No.1 and perused the materials on record.

Appellant has preferred this appeal against the judgment of conviction passed by Learned Principal Senior Civil Judge and JMFC Court, KGF in C.C.No.327/2018 dated 14.10.2024 in which Trial Court has convicted the accused and sentenced him to fine of Rs.6,40,000/- and out of said fine amount, it is ordered to pay fine of Rs.6,30,000/- as compensation and Rs.10,000/- to the state. Complainant had filed the complaint stating

that, accused is known to him since last 10 years and borrowed the hand loan of Rs.6,20,000/- and issued cheque bearing No.181530 dated 05.04.2018 for Rs.6,20,000/- drawn on Canara Bank, Robertsonpet branch KGF. Complainant presented the said cheque to Karur Vysya Bank, Robertsonpet branch which was dishonoured as funds insufficient. Complainant has issued Legal Notice to the accused on 03.05.2018 which is served upon him and he has not paid said amount for which complainant filed the complaint against the accused for the offence punishable under section 138 of Negotiable Instruments Act.

After taking cognizance of an offence, sworn statement of complainant has been recorded and summons issued to the accused who appeared and released on bail. Plea of the accused was recorded and substance of accusation were read over and explained to the accused who pleaded not guilty. Complainant himself examined as PW-1 and ExP-1 to 22 are marked. Statement of the accused has been recorded who denied incriminating evidence against him. Accused himself examined as DW-1 and closed the evidence. After hearing the arguments, Trial Court has convicted the accused which has been challenged in this appeal.

Accused has statutory right to prefer the appeal. If during the pendency of this appeal, judgment of conviction passed by Trial Court is put into execution, he will be put to loss and hardship and he will be remanded to jail, very purpose of filing the appeal will be defeated and he will be put to loss and hardship and on the contrary, no kind of loss or hardship will be caused to other side. So I feel it just and proper to stay execution of sentence passed by Trial

Court subject to depositing 20% of cheque amount and subject to executing personal bond of Rs.50,000/- with likesum surety to the satisfaction of Trial Court. So I proceed to pass the following:

ORDER

I.A.No.1 under section 430 of Bharatiya Nyaya Sanhita-2023 is hereby allowed.

The execution of sentence passed by Learned Principal Senior Civil Judge and JMFC Court, KGF in C.C.No.327/2018 is hereby stayed for the period of three months or till the disposal of appeal whichever is earlier subject to condition that, accused shall deposit 20% of cheque amount and he shall execute personal bond of Rs.50,000/- with like sum surety to the satisfaction of Trial Court within one month from the date of this order.

Office is hereby directed to communicate the stay order to the Trial Court immediately.

Issue notice of appeal memo to the respondent if process fee paid.

III Addl. District & Sessions Judge,
Kolar (Sitting at KGF)