

KAKL310028002024



IN THE COURT OF PRL. CIVIL JUDGE & JMFC, MALUR

PRESENT

Smt. Gayatri., B.Com., LL.M., (IPR)
Prl. Civil Judge & JMFC, Malur

Dated 25th day of June 2026

C.C. No.1638/2024

Complainant ::

Venkataswamy
S/o Late Chikkathayappa,
Aged about 53 years,
R/o Pichakuntrahalli Village,
Masthi Hobli, Malur Taluk.

[By: Sri.N.B.S,, Advocate]

-V/s-

Accused ::

Bhagya
W/o Shivappa,
D/o Muniyappa,
R/o Kallanduru Village,
Begli Hosahalli Panchayath,
Kasaba Hobli, Kolar Taluk,
Malur Town, Kolar District.

[By: Sri.T.A.M, Advocate]

JUDGMENT ON JOINT MEMO

Complainant has filed present complaint against accused U/Sec. 223 of BNSS for offence punishable U/s 138 of Negotiable Instrument Act, 1881.

2. The brief fact of the case are as under:

Complainant submits that, himself and accused are known to each other out of said acquaintance accused approached the him for a hand loan of Rs.2,20,000/- on 1st week of April 2024 and the Complainant agreed for the same on 2nd week of April 2024. Accordingly, Accused has borrowed a sum of Rs.2,20,000/- from the Complainant, by way of cash for his family problems and discharge the hand loans and agreed repay the same within 5 months.

3. Accused assuring the repayment of same towards the repayment of said hand loan executed a Cheque in respect of said hand loan and a cheque bearing No.064162 drawn on State Bank of India, Masthi branch, for a sum of Rs.2,20,000/- on dated: 30.07.2024 .

4. Complainant further submits that, in order to get it encash has presented the said cheque on 06.08.2024 to his banker Karnataka Gramin Bank, Kudiyanur Branch, for its encashment. The said cheque was returned for “FUNDS INSUFFICIENT” on 07.08.2024.

5. Complainant further submits that, he on 21.08.2024 through his counsel got issued legal notice to accused calling upon the accused to repay the alleged hand loan, the said notice was returned with shara no such person. Hence, he left with no other option he has filed the present complaint against accused for the offence punishable U/sec.138 of N. I. Act.

6. Per contra, in pursuance to the complaint, summons was issued to accused. Accused did not appear before Court NBW was issued. Later, Accused appeared voluntarily before Court through counsel and was enlarged on bail.

7. Plea was recorded and read over to accused by Predecessor on 19.11.2025, she denied the same and claimed to be tried.

8. Complainant has examined himself as PW1 and got marked Ex.P1, 1(a), 2 to 5.

9. In view of compromise entered into between by Complainant and Accused, the recording of statement of accused U/s 351 of BNSS was dispensed with. Complainant and Accused have filed Joint Memo.

10. Heard both the Counsels on Joint Memo. Hence, matter was posted for Judgment on Joint Memo.

11. The points those arises for the consideration of this court are as under:

1. Whether complainant proves that accused borrowed a sum of Rs.2,20,000/- and thereby issued a cheque bearing No.064162 drawn on State Bank of India, Masthi Branch on dated 30.07.2024, towards the said amount and the said cheque was returned with an endorsement "FUNDS INSUFFICIENT" on 07.08.2024 and thereby accused committed an offence punishable U/s 138 of N.I. Act,?

2. What order?

12. This court's findings on the above points are as under:

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

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

REASONS

13. POINT NO.1:

Complainant has examined himself as PW-1, filed his affidavit in lieu of examination-in-chief by reiterating all those averments made by him in his complaint. Complainant has produced 5 documents and got them marked as Ex.P1, 1(a) , 2 to 5. Ex.P1 is Original Cheque bearing No.064162, Ex.P1(a) is the signature of Accused, Ex P2 is the endorsement issued by Bank, for funds insufficient, Ex.P3 is office copy of legal notice, Ex.P4 is the Postal receipt and Ex.P5 is the RPAD cover with

postal acknowledgment, Ex.P5(a) is the copy of notice which is inside in RPAD cover.

14. After complainant examining himself as PW1 during the course of trial, at the time when matter was posted for cross-examination of PW1, the complainant and accused have entered into settlement. The learned counsel for complainant and accused have filed joint memo stating that accused has agreed to pay Rs.1,00,000/- to the complainant, the Accused has agreed to pay a sum of Rs.50,000/- on 25.06.2026, and balance Rs.50,000/- agreed to pay on 25.07.2026, and in case of failure, the Accused has agreed to pay Rs.2% interest per month to Complainant for the cheque amount, as mentioned in Joint Memo. In view of joint memo filed by the parties, it is clear that accused has committed an offence under section 138 of Negotiable Instrument Act, 1881. Hence, this court without further discussion proceeds to answer this point accordingly.

15. POINT NO.2:

In view of above discussion and the reasons stated therein this court proceeds to pass the following:

ORDER

Acting under Section 278(2) of BNSS, Accused is hereby convicted for offence U/s 138 of Negotiable Instrument Act, 1881.

Accused shall pay a fine of Rs.1,00,000/- (Rupees One Lakh only), out of which the Accused has agreed to pay a sum of Rs.50,000/- on 25.06.2026, and balance Rs.50,000/- agreed to pay on 25.07.2026 as mentioned in the joint memo to complainant. In default Accused shall undergo simple imprisonment for a period of 6 months.

Upon failure of the Accused to pay Rs.1,00,000/- as agreed by him, complainant is at liberty to take action for recovery of fine amount against the accused as per Sec. 461(1) of BNSS, Complainant is at liberty to recover out standing amount at 2% interest per month on agreed amount.

The bail bond and surety bond of the accused stands cancelled.

Office to supply free copy of this Judgment to Accused.

(Smt.Gayatri)
Prl. Civil Judge & JMFC,
Malur.

ANNEXURE

1. List of witnesses examined for the Complainant :

PW-1 : Venkataswamy

2. List of documents exhibited for the Complainant:

Ex.P1 : Original cheque.
Ex.P1(a) : Signature of accused.
Ex.P2 : Endorsement.
Ex.P3 : Office copy of legal notice.
Ex.P4 : Postal receipt.
Ex.P5 : Postal Acknowledgment
Ex.P5(a) : The copy of notice which is
inside in RPAD cover.

3. List of witnesses examined for the accused: NIL

4. List of documents exhibited for the accused: NIL

(Smt.Gayatri)
Prl. Civil Judge & JMFC,
Malur.