KAMD600022672022

IN THE COURT OF THE I ADDL SENIOR CIVIL JUDGE AND JMFC., AT PANDAVAPURA

Dated this the 5th day of June 2026

PRESENT:

Sri.BABU.N., B.Com., LL.B.
I Addl. Senior Civil Judge & JMFC.,
Pandavapura.

C.C.No.934/2022

COMPLAINANT : Kiran S/o Papegowda,
Aged about 40 years,
R/o: Opp.316, N.M.Road,
K.S.R.T.C Bus Dipo,
Pandavapura Taluk,
Mandya District.

(Rep. By Sri.G.B.Vinod Kumar, Advocate)

V/s

ACCUSED : Ravi Kumar T.J.
S/o Javaraiah,
Aged about 40 years,
R/o: Tirumalasagara Chatra,
Ingalaguppe Post,
Kasaba Hobli, Pandavapura Taluk,
Mandya District.

(Rep. by Sri.S.M.M, Advocate)

JUDGMENT

The complaint is filed under Section 200 of Cr.P.C. for the offense punishable under Section 138 of Negotiable Instruments Act.

2. Brief facts of the complainant's case are as follows:-

That, the complainant and accused are known to each other and that, in order to meet domestic expenses the accused availed a loan of Rs.3,00,000/- from the complainant on 04.01.2021 with an assurance that, he would repay the amount within 2 months and that, as against the said loan, the accused issued a post dated cheque bearing No.185967 dated 06.03.2021 drawn on State Bank of India, Bellale branch towards repayment of the loan amount and that, the complainant presented the said cheque to his banker i.e., Bank of Baroda, Pandavapura Branch on 06.03.2021 for encashment and that, the said cheque was returned with the shara “Funds Insufficient” on 10.03.2021 and hence the complainant informed it to the accused and that, the accused gave irresponsible reply due to which the complainant got issued notice dated 23.03.2021 and that, the said notice was returned with the shara “refused” on 08.04.2021 and in spite of it the accused has neither issued reply nor repaid the loan amount and hence the complaint.

3. Based on the complaint averments, sworn statement and the documents produced by the complainant, the court took cognizance of the offense punishable under Section 138 of Negotiable Instruments Act and issued summons to the accused in response to which the accused appeared before the court and got enlarged on bail. The plea of the accused was recorded and the accused pleaded not guilty and claimed to be tried. However, during the course of recording plea, the accused admitted that, the cheque and the signature thereon belong to him and contended that, his cheque is being misused. During pendency of the case, the complainant and accused filed a joint memo dated 11.02.2026 stating that, they have settled the matter for Rs.1,20,000/- subject to condition that, the accused shall pay a sum of Rs.20,000/- on 11.02.2026 and remaining amount of Rs.1,00,000/- on 14.03.2026. Despite filing joint memo the accused did not a comply with the conditions. Hence, the complainant got examined as PW-1 and marked Ex.P-1 to 5. Learned counsel for the accused cross examined PW-1. The statement of the accused was recorded as per Section 313 of Cr.P.C. The accused led his evidence and learned counsel for the complainant cross examined the accused. Heard learned counsel for the respective parties on merits.

4. Following points do arise for consideration:-

1. Whether the cheque in question was given by the accused to the complainant in discharge of legally enforceable debt?
2. Whether the cheque in question was dishonored on presentation?
3. Whether the reason for dishonor of cheque was "Funds Insufficient"?
4. Whether the cheque was presented within the prescribed period?
5. Whether the complainant made a demand for the payment of amount of money under the cheque by giving a notice in writing to the accused within the prescribed period after receipt information as regards dishonor of cheque from the bank?
6. Whether the accused failed to make payment of

cheque amount within 15 days of receipt of said notice?

7. What order?

5. Having heard learned counsel for the respective parties and considered both the oral and documentary evidence on record meticulously, I have answered the above points as below for the following:

Point No.1: In the Affirmative
Point No.2: In the Affirmative
Point No.3: In the Affirmative
Point No.4: In the Affirmative
Point No.5: In the Affirmative
Point No.6: In the Affirmative
Point No.7: As per final order for the following;

R E A S O N S

6. **POINT NO.1:-** It is the specific case of the complainant that, himself and accused are known to each other and that, the accused borrowed a sum of ₹3,00,000/- from the complainant on 04.01.2021 in order to meet his domestic expenses by stating that he would repay the amount within 2 months and issued a post dated cheque bearing No.185967 dated 06.03.2021 drawn on State Bank of India, Bellale Branch for a sum of Rs.3,00,000/- to the complainant on the same day and instructed him to encash it on the due date of the cheque. Thus it is the specific case of the complainant that, the accused has issued the cheque towards discharge of legally recoverable debt.

7. In order to establish the same, the complainant has got himself examined before the court as PW-1 and produced the cheque, bank endorsement, notice, postal receipt and refused postal cover and got them marked as Ex.P-1 to P-5 respectively.

8. During the course of recording plea of the accused he stated before the court that, the cheque and the signature thereon belong to him and that, the complainant has misused his cheque. It is also pertinent to note here that, during the course of trial the complainant and accused filed a joint memo before the court on 11.02.2026 settling the case for a sum of Rs.1,20,000/- with a condition that, the accused shall pay the amount in two installments on 11.02.2026 and 14.03.2026. However, the accused did not comply with the conditions due to which the complainant proceeded with the trial.

9. As can be seen from the suggestions made to PW-1 by learned counsel for the accused during the course of his cross examination the defence of the accused is that, the complainant had bought a mobile phone for the accused by receiving a cheque from him. Even during the course of examination in chief also the accused has reiterated the same. Relevant portion of his cross examination is as follows: "ದೂರುದಾರರಿಗೂ ಮತ್ತು ನನಗೂ ಪರಿಚಯವಿದೆ. ದೂರುದಾರರು ಮೊಬೈಲ್ ಫೋನ್ ಕೊಡಿಸುವುದಾಗಿ ಹೇಳಿ ನನ್ನಿಂದ ಅವರು ಚೆಕ್ಕನ್ನು ಪಡೆದುಕೊಂಡರು. ನಾನು ಕೆಲಸ ಮಾಡುವ ಸ್ಥಳದಲ್ಲಿ ಪಿರ್ಯಾದಿಗೆ ಚೆಕ್ಕನ್ನು ನೀಡಿದೆ. ನಾನು ನೀಡಿದ ಚೆಕ್ಕಿನ ಆಧಾರದ ಮೇಲೆ ಪಿರ್ಯಾದಿಯು ನನಗೆ ರೂ.30 ಸಾವಿರ ಬೆಲೆ ಬಾಳುವ ಮೊಬೈಲ್ ನ್ನು ಕೊಡಿಸಿದರು. ಆನಂತರ ಪಿರ್ಯಾದಿಯು ನನ್ನ ಆ ಚೆಕ್ಕನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಈ ಕೇಸನ್ನು ಹಾಕಿದ್ದಾರೆ." Thus, it is crystal clear that, the cheque at Ex.P-1 and the signature thereon belong to the accused. No doubt, during the course of recording his plea the accused has denied that, he has issued the cheque to the complainant. But, during the course of examination in chief the accused has categorically stated himself that, he has issued the cheque to the complainant and that, the complainant has misused the said cheque. Under these circumstances, it has to be said that, the cheque and the signature thereon belong to the accused and that, the accused himself has delivered the said cheque to the complainant.

10. I have carefully heard learned counsel for the respective parties and considered both the oral and documentary evidence on record meticulously.

11. As the cheque and the signature thereon belong to the accused a presumption as provided under Section 139 of Negotiable Instruments Act needs to be drawn. The said section provides for presumption in favour of the complainant that, the cheque was issued towards discharge of legally recoverable debt. The accused can rebut the presumption by raising probable defense. In the present case, even though, the accused has subsequently raised a defence that, he had delivered the cheque to the complainant towards purchase of a mobile phone for him, as already said, the accused and complainant have jointly filed a memo stating that, they have settled the matter for a sum of Rs.1,20,000/-. The said memo reads as follows: "ಜಂಟಿ ಮೆಮೋಃ- ಮೇಲ್ಕಂಡ ಘನ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪಿರ್ಯಾದುದಾರರ ಪರ ವಕೀಲರು ಪ್ರಾರ್ಥಿಸಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಸದರಿ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಪಿರ್ಯಾದುದಾರರು ಮತ್ತು ಆರೋಪಿಯು ಊರಿನ ಯಜಮಾನರ ಮೂಖಾಂತರ ರಾಜಿ ಸಂಧಯಾ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಪಿರ್ಯಾದುದಾರರು ಮತ್ತು ಆರೋಪಿಯು ರೂ 1,20,000/- ಕ್ಕೆ ರೂ.20,000/- ಕೊಡಲು ಮತ್ತು ಎರಡನೆ ಕಂತು ದಿನಾಂಕ 14.03.2026 ಕ್ಕೆ ರೂ.1,00,000/- ಕೊಡಲು ಒಪ್ಪಿಕೊಂಡು ಪಿರ್ಯಾದುದಾರರು ಮತ್ತು ಆರೋಪಿಯು ಸಹಿ ಮಾಡಿರುತ್ತಾರೆ. ಒಂದು ವೇಳೆ ಈ ದಿನಾಂಕದಿಂದು ಕೊಡದೆ ಇದ್ದಲ್ಲಿ ಚೆಕ್ಕಿನ ಸಂಪೂರ್ಣ ಹಣಕ್ಕೆ ನಾವು ಬದ್ದರಿರುತ್ತೇವೆ. ಆದ್ದರಿಂದ ಈ ಪ್ರಕರಣವನ್ನು ಲೋಕದಲತ್ ಗೆ ಮುಕ್ತಾಯ ಮಾಡಿಸಿಕೊಡಬೇಕಾಗಿ ಪ್ರಾರ್ಥನೆ."

12. The fact that, the accused has entered into compromise with the complainant clearly indicates that, a financial transaction has taken place between them. Otherwise the accused would not have entered into any kind of settlement with the complainant. No doubt, the accused has subsequently raised a defence that, the complainant has misused the cheque which he had delivered to the complainant towards purchase of mobile phone for him. But the accused has not produced even a small piece of evidence show that, the complainant had bought a mobile phone for the accused by collecting a cheque from him. In the absence of cogent and convincing evidence substantiating the defence raised by the accused the court cannot hold that, the accused has rebutted the presumption raised in favour ofthe complainant. Based on the admission that, the cheque and the signature thereon belongs to the accused and that, the accused himself has delivered it to the complainant it has to be said that, the accused has issued the said cheques towards discharge of legally recoverable debt. The accused has failed to produce, as already observed, cogent and convincing evidence to rebut the presumption. Hence **I answer Point No.1 in the Affirmative.**

13. <u>POINTS NO.2 TO 6:-</u> It is the specific case of the complainant that, he presented the cheque bearing No:185967 dated 06.03.2021 drawn on the account maintained by the accused with the State Bank of India, Bellale Branch in favour of the complainant for a sum of Rs.3,00,000/- to his banker Bank of Baroda, Pandavapura Branch and that, the same was returned with the shara "Funds Insufficient" on 10.03.2021 due to which the complainant got issued notice dated 23.03.2021 and that, the said notice was returned with the shara “refused” on 08.04.2021 and in spite of it the accused has not paid the cheque amount.

14. In order to substantiate his contention, the complainant has produced the cheque at Ex.P-1, bank endorsement at Ex.P.2, notice dated 23.03.2021, postal receipt, postal cover and refused postal cover at Ex.P-1 to P-5 respectively. The accused has stated in his cross examination that, he had been to Mysuru and hence he could not receive the notice. The said answer clearly indicates that, the notice was properly addressed to the accused. Therefore it has to be said that, the notice was duly served on the accused.

15. A perusal of the said documents clearly shows that, the complainant has presented the cheque for collection within the period of its validity and issued notice to the accused within the prescribed period immediately after receipt of bank memo calling upon him to pay the amount and filed the present complaint after completion of statutory period of 15 days and within the prescribed period. In the present case the accused has already paid a sum of Rs.20,000/- to the accused. Therefore it is proper to direct the accused to pay the remaining amount out of Rs.3,00,000/-. **Accordingly, I answer Points No.2 to 6 in the Affirmative.**

16. <u>POINT NO.7:-</u> Having answered Points No.1 to 6 in the Affirmative, I proceed to pass the following:

<u>ORDERS</u>

Acting U/s 255(2) of Cr.P.C the accused is hereby convicted for the offence punishable U/s 138 of NI Act.

The accused is hereby sentenced to pay fine of **Rs.2,90,000/-** (Rupees Two lakhs Ninety thousand only) and acting U/s 357(3) of Cr.P.C. Out of the total fine amount payable by the accused, a sum of

Rs.2,80,000/- shall be paid to the complainant as compensation and remaining amount of **Rs.10,000/-** shall be defrayed as State expense.

In default of payment of fine the accused shall under go simple imprisonment for a period of 6 months.

It is further made it clear that if the accused opt to undergo imprisonment, it does not absolve him from liability of paying compensation to the complainant.

Office is hereby directed to supply free certified copy of this judgment to the accused forthwith.

(Dictated to the Stenographer on computer directly, corrected and the same is pronounced by me in the open Court on 5th day of June - 2026)

(BABU.N)
I Addl. Senior Civil Judge & JMFC,
Pandavapura.

ANNEXURE

List of witnesses examined on behalf of complainant :-

PW-1 : Kiran

List of documents exhibited on behalf of complainant :- :-

Ex.P-1	:	Original Cheque bearing No.185967
Ex.P-2	:	Bank endorsement issued by Bank of Baroda, Pandavapura of branch dated 10/03/2021.
Ex.P-3	:	Legal notice dated 23/03/2021.
Ex.P-4	:	Postal receipt.
Ex.P-5	:	Postal cover
Ex.P-5(a)	:	Reply notice

List of witnesses examined on behalf of the accused:-

DW.1 : Ravikumar T.J

List of documents exhibited on behalf of the accused :-

Nil

List of material objects marked on behalf of complainant :

- Nil -

(BABU.N)
I Addl. Senior Civil Judge & JMFC,
Pandavapura.