



**IN THE COURT OF THE I ADDITIONAL DISTRICT &
SESSIONS JUDGE AT MYSURU.**

Dated this the 11th day of March 2026

Present: Sri D.Puttaswamy, B.A., LL.B.
I Addl. Dist. & Sessions Judge
Mysuru

: CrI.A./9/2026:

Appellant : Ravi G. S/o Gopala, Aged about
38 years, R/at No.69,
Kadanahalli Village, Rampura
Post, Jayapura Hobli, Mysuru
Taluk/District.

(By **Sri K.R.Srinivas**, Adv.)

V/s.

Respondent /s : Mariswamy S/o Hanumaiah,
Aged about 49 years, R/at
No.12/A, 22nd Cross, 2nd Stage,
J.P.Nagar, Last Bus Stop,
Mysuru.

(By **Sri Ranjith E.**, Adv.)

JUDGMENT

The present Appeal is preferred by the Appellant/Accused U/sec.415 of Bharatiya Nagarik Suraksha Sanhita, 2023 being aggrieved by the impugned Judgment of conviction and order of sentence dated

11.12.2025 passed by the IV Addl. Civil Judge & JMFC, Mysuru in C.C.No.200/2023.

2. The Appellant was the accused and respondent was the complainant before the Trial Court. The parties will be hereinafter referred to as per their ranks assigned to them in the Trial Court.

3. The brief facts of the case are that, the accused and complainant are known to each other. On such acquaintance, in the month of September-2022 he availed loan of Rs.3,00,000/- from the complainant for his legal necessities and to discharge hand loans and issued a cheque bearing No.169390, dated 12.12.2022 for a sum of Rs.3,00,000/- drawn on Axis Bank, Malleswaram Branch, Bengaluru. When the complainant presented the said cheque for encashment through his banker Karnataka Bank Ltd., J.P.Nagar Branch, Mysuru, it came to be dishonoured with an endorsement as 'Drawers signature illegible' on 19.12.2022. Thereafter, the complainant got issued a legal notice through RPAD on 21.12.2022 to the accused and same was returned unserved with shara Left on 31.12.2022. Thereby, he has committed offence

punishable U/sec.138 of N.I Act. Therefore, the complainant filed the complaint.

4. On filing of the complaint, the Trial Court took cognizance of the offence, recorded the sworn statement of complainant and ordered to register the case against the accused and secured his presence. Substance of the accusation is orally stated to him, for which he pleaded not guilty and claimed to be tried.

5. The complainant got examined himself as PW1 and got marked Ex.P1 to P5. The statement of accused U/sec.313 of Cr.PC has been recorded. The accused has denied the incriminating evidence appearing against him. The accused got examined himself as DW1 and got marked 2 documents as per Ex.D1 & D2. On hearing the matter, the Trial Court passed the Judgment of conviction and sentenced the accused to pay fine of Rs.3,10,000/-, in default he shall undergo simple imprisonment for a period of six months. It is further ordered that out of the fine amount, the complainant is entitled for the compensation of Rs.3,05,000/- and remaining amount of Rs.5,000/- shall be paid to the State.

6. Being aggrieved by the impugned Judgment of conviction and sentence, the present appeal is preferred on the following grounds:

That the Trial Court erred in believing the version of the respondent. The Trial Court has not provided sufficient time and opportunities to the appellant for cross-examination of PW1. PW1 was partly cross-examined by the appellant's counsel on 04.12.2024 and taken adjournment. On 24.02.2025 the Trial Court has taken cross-examination of PW1 as Nil as the appellant and his counsel not represented the case due to their unavoidable circumstances. The counsel has misled the appellant without recalling PW1. The appellant never received such huge amount of Rs.3,00,000/- from the respondent at any point of time. The appellant has disputed his signature on Ex.P1.

Therefore, the appellant prays to set-aside the judgment of the Trial Court and to remand the matter to the Trial Court for cross-examination of PW1 by allowing the appeal.

7. After admitting the appeal, notice was issued to the respondent. The respondent appeared through his counsel. The Trial Court records have been secured.

8. I have heard the arguments of learned counsels appearing for the appellant and the respondent and perused the Trial Court records.

9. The following points that arise for my consideration are:

- 1) Whether the impugned Judgment of conviction and order of sentence dated 11.12.2025 passed by the IV Addl. Civil Judge & JMFC, Mysuru in C.C.No.200/2023 is erroneous and calls for interference by this Court?
- 2) Whether the appellant has made out grounds to remand the matter to the Trial Court?
- 3) What order?

10. My findings to the above points are as under;

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

Point No.2: **In the Negative.**

Point No.3: **As per final order for the**

following:

REASONS

11. **Point No.1 & 2:** It is settled law that, in the case of present nature, two important legal requirements are to be satisfied i.e., whether the cheque has been issued by the appellant or not, if issued, whether it is towards legally recoverable debt or liability or not. In this background, let us analyze the evidence on record.

12. The case of the complainant is that, the accused having borrowed a sum of Rs.3,00,000/- for his legal necessities in the month of September-2022 and for repayment of the said loan, issued a cheque bearing No.169390, dated 12.12.2022 for Rs.3,00,000/- drawn on Axis Bank, Malleswaram Branch, Bengaluru in favour of complainant and on its presentation for encashment through his banker i.e., Karnataka Bank Ltd., J.P.Nagar Branch, Mysuru, it came to be dishonoured with an endorsement 'Drawers signature illegible', as such the accused committed the offence punishable U/s.138 of N.I Act.

13. The complainant has adduced evidence as PW1 by reiterating the complaint averments and has produced cheque at Ex.P1, Bank endorsement dt:20.12.2022 issued by the Karnataka Bank Ltd., J.P.Nagar Branch, Mysuru at Ex.P2, office copy of Legal Notice dt:21.12.2022 at Ex.P3 and Postal receipt at Ex.P4 and RPAD Cover at Ex.P5. On the other hand, the accused adduced evidence as DW1 and got marked his PAN Card and appointment order at Ex.D1, and Ex.D2.

14. There is no dispute that the complainant and accused are known to each other. The complainant has produced a cheque at Ex.P1, it is dt:12.12.2022. Ex.P2 Bank endorsement shows that cheque was dishonoured for "Drawers signature illegible," it is dt:20.12.2022. It shows that the complainant presented the cheque within time and it was dishonoured with an endorsement "Drawers signature illegible". Thereafter, the complainant got issued a legal notice to the accused on 21.12.2022 as per Ex.P3, intimating the accused about dishonour of cheque and calling upon him to pay the amount within 15 days from

the date of receipt of notice. The said notice returned with shara Left as per Ex.P5.

15. In so far as this aspect is concerned, nothing has been elicited in the cross-examination of PW1 to discredit his evidence. Therefore, it is clear from the evidence that the complainant has complied the mandatory provisions of Sec.138 (a) to (c) of N.I.Act, and thereby, it attracts the ingredients of Section. It is to be noted that, the presumption under NI Act is rebuttable presumption, whether the accused has rebutted the presumption or not is to be seen.

16. The defence of the accused is that the complainant is none other than the brother-in-law of his sister Shanthamma and he used to visit his house frequently since 2021 and on one such occasion he has taken out a cheque kept in his table drawer and it has been misused by the complainant by forging his signature and has filed false complaint and therefore, he has not taken any amount from the complainant. As rightly observed by the Trial Court, keeping the cheque in the table drawer and taking out one of the cheque from the cheque book by

the complainant is highly improbable, because the accused has not taken any steps or action against the complainant even after receiving summons from the Court or after having knowledge of alleged theft of cheque and also about his forged signature. But, the accused has stated in his examination-in-chief that he got to know about theft of his cheque only after receipt of Notice from the complainant. It shows that the accused has knowledge about the Notice issued by the complainant. Even then the RPAD cover returned with shara 'Left', which was sent to the correct address of the accused. Therefore, the version of accused is different from each other.

17. The further contention of the accused is that the complainant has forged his signature. When this contention is taken, the burden is on him to prove the same. It is seen from the documents that the accused has signed in various types and there is little difference in all the signatures of accused when compared. Even the Bank endorsement says that the signature of accused is illegible and not mismatch. Such being the case, the word illegible cannot be construed as forgery. If the signature of

accused is forged as contended by him, the Bank should have given endorsement to the effect that signature is forged or mismatch. Therefore, the accused has failed to prove that his signature on Ex.P1 has been forged by the complainant.

18. The learned counsel for appellant submitted that the Trial Court has not provided sufficient time and opportunities to the accused to cross-examine PW1. PW1 was partly cross-examined by the counsel for accused on 04.12.2024 and taken adjournment. On 24.02.2025, the Trial Court has taken cross-examination of PW1 as Nil as the accused and his counsel not represented the case due to their unavoidable circumstances. The counsel has mislead the accused without recalling PW1. In this background, when we see the order sheet of Trial Court, it reveals that the counsel for accused partly cross-examined PW1 on 04.12.2024 and taken adjournment. Then the matter was posted for further cross-examination of PW1 on 04.01.2025. On 04.01.2025, the counsel for accused sought time for further cross-examination of PW1, even though PW1 was present. Considering the

request of counsel for accused, again the matter was posted for further cross-examination of PW1 on 22.01.2025. On 22.01.2025, since PW1 was absent, time was given for further cross-examination of PW1 on 24.02.2025. On 24.02.2025 PW1 and his counsel were present, but accused and his counsel were absent. Considering the absence of accused and his counsel, the Trial Court taken further cross-examination of PW1 as Nil and issued NBW against the accused and it was reissued once again by giving date on 26.06.2025. On 06.05.2025 by getting the matter advanced, the accused was present and NBW issued against him was recalled. After recording accused statement U/s.313 of Cr.P.C. much time was given to the accused to lead defence evidence also and finally he led the defence evidence. It is therefore, clear from the Trial Court order sheet that though the Trial Court has afforded sufficient opportunities to the accused for further cross-examination of PW1, the accused did not avail such opportunities. If his advocate mislead him, he should have changed the advocate or report the same to the concerned authority against his advocate, which is not

done. Therefore, the submission of the learned counsel for appellant holds no water.

19. It is therefore, clear from the ocular evidence of PW1 coupled with Ex.P1 to P5 that the complainant has discharged his initial burden, which constitute an offence against the accused U/sec.138 of N.I.Act. The very defence setup by the accused would suggest that Ex.P1 i.e., cheque belongs to him. When the accused has not taken any legal action against the complainant, it shows that the accused has issued the cheque in question in favour of the complainant. Therefore, the presumption U/sec.118 & 139 of N.I Act, would arise in favour of complainant. Though this presumption has been rebutted by the accused by placing evidence before the Trial Court, but it is insufficient to prove his case. In the absence of such evidence, the Court has to presume that the cheque was issued by the accused in favour of the complainant to discharge legally recoverable debt.

20. Therefore, it is clear from the evidence on record that the accused in order to repay the amount, issued Ex.P1-Cheque in favour of complainant and further

the accused has failed to rebut the presumption or to create doubt in the mind of Court regarding case of complainant and cheque has been issued for discharge of legally recoverable debt, knowing-fully well that he has put his signature illegibly in the cheque issued to the complainant and thereby he has committed the offence punishable U/s.138 of N.I Act.

21. On re-appreciation of evidence and on going through the impugned Judgment and order, it is clear that the learned Trial Judge has appreciated the evidence on record in a right perspective manner and held the accused guilty for the offence punishable U/s.138 of N.I Act. So, the finding of Trial Court is in accordance with law. That being so, the question of remanding the matter to the Trial Court does not arise. As such, the Judgment of the Trial Court does not call for any interference by this Court. Therefore, I answer Point No.1 & 2 **in the Negative.**

22. **Point No.3:** In view of my answer on point No.1 and 2 and for the foregoing reasons, I proceed to pass the following:

ORDER

The Criminal appeal filed by the appellant is hereby dismissed.

The Judgment of conviction and order of sentence dated 11.12.2025 passed by the IV Addl. Civil Judge & JMFC, Mysuru in C.C.No.200/2023 is confirmed.

The Appellant/Accused shall surrender before the Trial Court forthwith to receive the sentence.

Send the TCR along with copy of this Judgment to the Trial Court forthwith.

[Dictated to the Stenographer, transcribed by her, typed script corrected and pronounced by me in the open Court on this the 11th day of March, 2026]

[D.Puttaswamy]
I Addl. Dist. & Sessions Judge,
Mysuru.