KAMS010008902026

IN THE COURT OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU

Dated this the **7th day of July 2026**

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
III Addl. District & Sessions Judge,
Mysuru.

CRL.A/49/2026

APPELLANT	**:**	Sri.Ramakrishna s/o late Krishnappa, aged about 42 years, R/a Vaddarapalya village, Hampapura Hobli, H.D.Kote Taluk, Mysuru District. (By **Sri.S.B. -** Adv.)

V/s

RESPONDENT	**:**	Sri.Shivanna S/o late Puttaswamappa, aged about 76 years, R/a Vaddarapalya village, Hampapura Hobli, H.D.Kote Taluk, Mysuru District. (By **Sri.K.S.M. -**Adv.)

JUDGMENT

This is the Appeal filed by the Appellant/ accused U/Sec.415 of BNSS., challenging the Judgment dated 26.09.2025 in C.C.No.29/2020 on the file of learned Prl.Civil Judge & JMFC, H.D.Kote, under which the Trial Court has convicted the Appellant/accused for the offence U/Sec.138 of Negotiable Instrument Act, sentenced him to pay fine of Rs.3,30,000/- and in default to undergo simple imprisonment for period of six months and out of fine amount Rs.3,25,000/- is ordered to be paid in favour of the Respondent/complainant as compensation and the remaining amount of Rs.5,000/- shall go to the State.

2. The Appellant was the accused before the Trial Court and the Respondent was the complainant. The parties are herein after referred as per their status before the Trial Court for the sake of the convenience.

3. The complainant had filed the complaint before the trial court U/Sec.200 of Cr.P.C for the offence punishable U/Sec.138 of the Negotiable Instruments Act, in which he has contended as under:

On 20.7.2019 the accused has borrowed Rs.3,00,000/- from complainant for his legal necessities and agreed to repay the same with interest at the rate of 18% per annum within two months. After two months when complainant demanded the accused to repay the loan amount, accused has issued cheque bearing No.594563 for Rs.3,00,000/- drawn on Vijaya Bank, Hommaragalli Branch. When complainant presented the said cheque to bank for encashment, the same was dishonored with endorsement funds insufficient. After that, complainant got issued legal notice to accused calling upon him to repay the principle amount within 15 days. But even after service of notice, the accused has not chosen to repay the loan amount or interest and he has not replied to the notice. Therefore, accused has committed the offence punishable U/s.138 of Negotiable Instrument Act.

4. After taking the cognizance, the Trial Court recorded the sworn statement of the complainant and after registering the case as C.C.No.29/2020 on the file of Prl.Civil Judge and JMFC, H.D.Kote, Trial Court has issued summons to

the accused and after appearance of the accused, the Trial Court has recorded substance of the accusation for which the accused has pleaded not guilty, hence, the Trial Court has conducted the trial.

5. In support of his case the complainant examined himself as PW-1 and he got marked documents at Ex.P-1 to Ex.P-6 on his behalf. On the other hand, the accused got examined as DW-1 and got marked Ex.D.1 to D-6 documents on his behalf.

6. After hearing the arguments, the Trial Court has convicted the accused for the offence punishable U/Sec.138 of N.I.Act and ordered to pay Rs.3,30,000/- as fine and in default to undergo simple imprisonment for six months.

7. Now being aggrieved by the Judgment of the Trial Court, the accused has filed the present appeal on the following grounds:-

The judgment of trial court is erroneous and illegal, same is liable to be set aside. The complainant has filed the complaint and adduced evidence which is one sided. Appellant has not cross-examined the PW-1 and there is no opportunity is given to the accused to lead his evidence. The trial court has not appreciated those aspects while passing the impugned judgment. Infact, appellant has not borrowed loan from respondent at any time, hence there is no any legally dischargeable debt payable by the appellant was pending. Hence, question of appellant issuing cheque for repayment of loan amount to the complainant does not arise. The trial court has not appreciated the facts and circumstances of the case, it has not applied proper judicial mind and passed one sided judgment. The appellant has got good case on merits. The trial court has failed to look into the fact that the complainant has not satisfied the essential ingredients of Sec.138 of N.I.Act. Hence, judgment of the trial court is not in accordance with sound principles of law and same deserves to be set aside. Therefore, appellant has requested to set aside the judgment of the trial court.

8. Perused the records and Judgment of the Trial Court. Heard the arguments of respondent counsel. Appellant's counsel has failed to submit his arguments.

9. On the basis of the above facts following points have arisen for my consideration:-

1. Whether the complainant/ respondent has produced sufficient evidence to show that to pay the legally dischargeable debt the appellant/accused has issued the cheque No.594563 for Rs.3,00,000/-, dated 19.09.2019 drawn on Vijaya Bank, Hommaragalli Branch, on presentation of the cheque same has been dishonored with endorsement "Funds Insufficient", thereafter the complainant got issued notice dated 01.10.2019 to the accused and even after the issuance of notice accused has not paid the cheque amount thereby he has committed offence punishable U/Sec.138 of Negotiable Instrument Act?

2. Whether the Trial Court judgment calls for interference by this Court ?

3. What order?

10. Heard the arguments.

11. My finding on the above points are as under:

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

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

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

R E A S O N S

12. **POINT NO.1 & 2:-** Since these points are inter-connected, they are discussed together to avoid repetition of the facts.

It is the case of the complainant that, on 20.7.2019 accused has borrowed loan of Rs.3,00,000/- from complainant for his legal necessities agreeing to repay the same within two months with interest at the rate of 18% per annum. But after two months when complainant demanded for repayment of loan amount accused has issued cheque bearing No.594563 dated 19.9.2019 drawn on Vijaya Bank, Hommaragalli Branch. But when complainant presented the said cheque to bank for encashment, the same was dishonored with endorsement funds insufficient. After that, complainant has got issued notice to accused. Even after issuance of notice also the accused has not repaid the amount mentioned in the cheque. Thereby, the accused has committed the offence punishable U/ Sec.138 of the Negotiable Instruments Act.

13. By looking to the evidence produced by both the parties, it appears that, the accused has admitted the fact that the cheque marked at Ex.P.1 is belonging to accused and signature in the cheque also belongs to accused. Therefore, as per Section 118 and 139 of Negotiable Instrument Act, when the complainant produces cheque belonging to the accused containing signature of the accused it is necessary to presume that, the accused has issued the cheque in question for payment of legally recoverable debt and burden lies on the accused to rebut the said presumption. But in the present case, the accused has contended that when he had borrowed money of Rs.20,000/- from one Srinivas, he has issued Ex.P.1 cheque to said Srinivas towards security and by misusing the said cheque, the said Srinivas got filed the present case through the complainant. But accused has not at all produced any evidence regarding borrowing money from said Srinivas and issuance of cheque towards security to the said Srinivas. Further in cross-examination with regard to not replying to the notice of the complainant the accused has deposed stating that as complainant is not related to him and he has not borrowed any loan, he has not issued reply to the

notice. It shows that, the accused has received the notice, but he has not replied to the same. Further in cross-examination accused has admitted about construction of the house by spending Rs.7 lakhs. Therefore, by looking to evidence produced by the complainant and accused, it appears that the accused has not at all produced any material to rebut the presumption available in favour of the complainant.

14. With regard to the contention of the accused as contended in the appeal memo about the trial court not providing sufficient opportunity is concerned, by looking to order sheet of the trial court, it appears that the complainant examined himself in chief before October 2023, after appearance of the accused, accused took many adjournments and finally he completed the cross-examination of the PW-1 on 2.8.2024 and accused has produced his evidence, which goes to show that the trial court has provided sufficient opportunity to accused to cross-examine PW-1 and to produce his evidence. Therefore, said contention of the accused about trial court not providing sufficient opportunity appears to be incorrect.

15. Therefore, by considering evidence produced by both the parties and law applicable to the case, the trial court has thoroughly discussed and arrived to the conclusion that accused has issued the cheque for payment of legally recoverable debt and after dishonour he failed to pay the cheque amount. Therefore, he has committed offence punishable U/s.138 of Negotiable Instrument Act. Therefore, I am unable to find any valid reason to interfere with the Judgment of the Trial Court. Hence, it is decided to dismiss the appeal and confirm the Judgment of the Trial Court. Hence, **Points No.1 & 2 are answered as above.**

16. **POINT No.3:-** In the result, I proceed to pass the following;

ORDER

The appeal filed by the appellant/ accused under Section 415 of B.N.S.S is hereby ***Dismissed***.

Judgment of conviction in CC.No.29/2020 dated 26.09.2025 on the file of Prl.Civil Judge & JMFC., Court, H.D.Kote is hereby **confirmed**.

Amount if any deposited by the accused before the Trial Court is ordered to be released in favour of the complainant/respondent.

Send back the Trial Court Record along with the copy of this Judgment.

[Dictated to the Stenographer, transcribed & computerized by him, transcript revised, corrected and then pronounced by me in the open Court on this the **7th day of July 2026**]

(MALLANAGOUDA)
III Addl. District & Sessions Judge,
Mysuru.

Digitally signed by MALLANAGOUDA
Location: III Addl.District and Sessions Judge,Mysuru