



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

Dated this the 7th day of March 2026

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

:Crl.A./244/2025:

Appellant : K.Manjunatha S/o Late
Krishnegowda, Aged about 50
years, R/at
Maratikyathanahalli, Near
Water Tank, Doddegowda
House, Jayapura Hobli,
Mysuru Taluk/District.

(By **Sri Chethankumar N.S.**, Adv.)

V/s.

Respondent /s : R.Sathyanarayana S/o Late
Ranganna, aged about 77
years, R/o
Maratikyathanahalli, Jayapura
Hobli, Mysuru Taluk/District.

(By **Sri Darshan N.**, 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 29.05.2025 passed by the JMFC III Court, Mysuru in C.C.No.1396/2020.

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 complainant and accused are known to each other since several years. On such acquaintance, the accused borrowed a sum of Rs.7,50,000/- from the complainant on 10.06.2019 to meet out his legal necessities to clear the hand loan raised at the time of construction of house, agreeing to repay the same within one year. After expiry of one year, when the complainant demanded the accused to repay the amount, accused issued two cheques bearing No.013258 for a sum of Rs.4,00,000/- and another cheque bearing No.013259 for a sum of Rs.3,50,000/- dt:21.09.2020 drawn on Karnataka Bank Ltd., Bogadi Branch, Mysuru. When the complainant presented the said cheques for encashment through his banker Syndicate

Bank (Canara Bank), K.R.Circle Branch, Mysuru, it came to be dishonoured with an endorsement as 'Account Closed/Transferred' on 22.09.2020. Thereafter, the complainant got issued a legal notice through RPAD on 05.10.2020 to the accused and same was duly served on him. In spite of service of notice, the accused instead of paying the cheques amount, send reply Notice dt:15.10.2020 and thereby, he has committed the 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, after recording the sworn statement of complainant, 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 P19. 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 one document as per Ex.D1. On hearing the matter, the

Trial Court passed the Judgment of conviction and sentenced the accused to pay fine of Rs.7,50,000/-, in default he shall undergo simple imprisonment for a period of six months. It is further ordered that the complainant is entitled for entire fine amount towards compensation as per Sec.357(1) of Cr.P.C.. It is further ordered that serving on default sentence will not absolve the accused to pay the fine amount as per Sec.421(1) of Cr.P.C..

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

That the impugned order passed by the Trial Court is not in accordance with law. The Trial Court has not given opportunity to the accused to cross-examine the complainant. The Trial Court has not appreciated the oral evidence of the appellant in a proper perspective manner.

Therefore, the appellant prays to set-aside the judgment of the Trial Court and to acquit the accused 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 are secured.

8. I have heard the arguments of learned counsel appearing for the appellant 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 29.05.2025 passed by the JMFC III Court, Mysuru in C.C.No.1396/2020 is erroneous and calls for interference by this Court?
- 2) What order?

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

Point No.1: **Partly in the Affirmative.**

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

following:

REASONS

11. **Point No.1:** 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, on 10.06.2019 has borrowed a sum of Rs.7,50,000/- from the complainant for his legal necessities, agreeing to repay the same within one year. After expiry of one year, when the complainant demanded the accused to repay the loan amount, the accused issued two cheques bearing No.013258 and 013259 dt:21.09.2020 for a sum of Rs.4,00,000/- and Rs.3,50,000/- each respectively drawn on Karnataka Bank, Bogadi Branch, Mysuru. On its presentation for encashment by the complainant through his banker i.e., Syndicate Bank (Canara Bank), K.R.Circle Branch, Mysuru, they came to be dishonoured with an endorsement as 'Account Closed/Transferred' on 22.09.2020, 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 2 cheques at Ex.P1 and P2, Bank endorsements issued by the

Canara Bank, Mysuru at Ex.P3 & 4, office copy of Legal Notice dt:05.10.2020 at Ex.P5, Postal receipt at Ex.P6 & postal acknowledgment at Ex.P7, Reply Notice dt:15.10.2020 at Ex.P8, copies of two Sale Deeds dt:31.01.2023 at Ex.P9 & 10, 4 RTCs at Ex.P11 to P14, order sheet in CC No.3459/2018 at Ex.P15, joint Memo at Ex.P16, copy of complaint at Ex.P17, Marriage Invitation card at Ex.P18 and RTC at Ex.P19. On the other hand, the accused got examined himself as DW1 and got marked copy of Sale Deed at Ex.D1.

14. There is no dispute that the accused is known to the complainant. Ex.P1 and 2 are two cheques dt:21.09.2020. Ex.P3 & 4 are two Bank endorsements shows that cheques were dishonoured for "Account Closed", they are dt:22.09.2020. It shows that the complainant presented the cheques within time and they were dishonoured with endorsements 'Account closed'. Thereafter, the complainant got issued a legal notice to the accused on 05.10.2020 as per Ex.P5, intimating the accused about dishonour of cheques and calling upon him to pay the amount within 15 days from the date of receipt of

notice. The said notice was duly served on the accused as per Ex.P7.

15. 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. Though the accused has preferred this appeal on some grounds, on 09.09.2025, the counsel for parties submitted that the matter is settled between the parties . On 25.09.2025 both the parties and their counsels present and filed the Joint Memo stating that the matter is settled between the parties for Rs.6,00,000/-, out of which the appellant has paid a sum of Rs.1,50,000/- to the respondent on the same day and agreed to pay the remaining amount of Rs.4,50,000/- in three installments starting from 30.11.2025 of Rs.1,00,000/-, on 28.02.2026 of Rs.1,00,000/- and on 30.05.2026 of Rs.2,50,000/-.

17. As per the Joint Memo, the matter was called on 01.12.2025 since 30.11.2025 was general Holiday. On 01.12.2025 both the appellant and his counsel remained absent and the appellant did not pay Rs.1,00,000/- to the respondent as agreed in the Joint Memo. Considering the absence of appellant and his counsel, the case was posted on 08.12.2025. On 08.12.2025 the respondent and his counsel present, but the appellant and his counsel remained absent again. Considering this aspect, the case was posted on 12.12.2025 and on this day, the appellant has paid Rs.80,000/- instead of Rs.1,00,000/- to the respondent and prays time. The matter was posted on 09.01.2026. The appellant and his counsel became absent and the appellant has not paid the balance amount as agreed in the Joint Memo. The matter was posted on 30.01.2026.

18. On 30.01.2026 again the appellant and his counsel became absent, while the respondent and his counsel were present. On this day also the appellant did not pay the balance amount to the respondent. Again the matter was posted on 17.02.2026. On this day also the appellant and his counsel became absent and the balance amount has not been paid. Considering this aspect, the

matter was set down for arguments on 28.02.2026, which was the date of 2nd installment, where the appellant was supposed to pay Rs.1,20,000/- to the respondent and it is not paid and then case was posted on 05.03.2026 for arguments.

19. On 05.03.2026 respondent and his counsel present, but the appellant and his counsel became absent and there was no representation from their side. Considering the absence of appellant and his counsel and the fact of not acted upon the Joint Memo filed on 25.09.2025 from the side of appellant, after having heard the arguments from the side of respondent, posted the matter for Judgment. It is to be noted that the appellant after having admitting his liability, has entered into compromise and filed the Joint Memo on 25.09.2025, agreeing to pay a sum of Rs.6,00,000/- and made part payment on two dates for a total sum of Rs.2,30,000/- and he supposed to pay balance amount of Rs.3,70,000/- to the complainant/respondent and then he remained absent.

20. 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 the offence

against the accused U/sec.138 of N.I.Act. The fact of entering into compromise by the accused with the complainant, would suggest that Ex.P1 & 2 i.e., cheques belong to him. Therefore, the presumption U/sec.118 & 139 of N.I Act, would arise in favour of complainant. Though the 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 cheques were issued by the accused in favour of the complainant towards discharge of legally recoverable debt.

21. Therefore, it is clear from the evidence on record that the accused in order to repay the loan amount to the complainant, issued Ex.P1 & 2 - Cheques 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 cheques have been issued towards discharge of legally recoverable debt, knowing-fully well that he has closed his Bank account and thereby he has committed the offence punishable U/s.138 of N.I Act. Above all the appellant entered into

compromise with the respondent before this Court and made part payment and thereafter, he remained absent.

22. 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. But, in view of filing Joint Memo for Rs.6,00,000/- and in view of making part payment of Rs.2,30,000/- by the appellant/accused to the respondent/complainant, the appellant/accused is held guilty for the offence punishable U/s.138 of NI Act in so far as the remaining amount of Rs.3,70,000/- and to this extent the order of the Trial Court warrants interference of this Court. Therefore, I answer Point No.1 **Partly in the Affirmative.**

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

ORDER

The Criminal appeal filed by the appellant is partly allowed.

The Judgment of conviction and order of sentence dated 29.05.2025 passed by the JMFC III Court, Mysuru in C.C.No.1396/2020 is modified as under:

The appellant/ accused is convicted for the offence punishable U/s.138 of NI Act, and sentenced to pay fine of Rs.3,70,000/- and in default of payment of fine, he shall undergo simple imprisonment for a period of six months.

The entire fine amount is ordered to pay to the respondent/complainant as compensation U/s.357(1) of Cr.P.C.

As per the proviso of Sec.421(1) of Cr.P.C., the appellant/ accused shall not be absolved of his liability to pay the compensation amount of Rs.3,70,000/- awarded U/s.357 of Cr.P.C., even if he undergoes the default sentence.

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 7th day of March, 2026]

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