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**IN THE COURT OF THE IV ADDL. DISTRICT AND
SESSIONS JUDGE, MYSURU.**

Dated this the 07th day of April 2026

:PRESENT:

Sri. P.J.Somashekar, B.A. LL.M.,
IV Addl. District & Sessions Judge
Mysuru

CRL.A/361/2025

- Appellant/s:**
- 1.** Maruti Cut Size and Timber Depot,
Office at :
Door No.5, Near Karnataka Bank, Vivekananda Circle,
Vivekananda Nagara,
Mysuru 570 023.
Represented by its proprietor
Smt.Amulya Jagadish
D/o Late M.Jagadish Chandra,

Represented by LR's of
complainant
 - 1(a)** Smt.S.P.Kavitha
W/o Late M. Jagadish Chandra,
Aged about 55 years,
 - 1(b)** Smt.Amulya Jagadish
D/o Late M.Jagadish Chandra,
Aged about 30 years,

1(c) Sri Krishna J
S/o Late M.Jagadish Chandra,
Aged about 28 years,

All are Residing at
D.No.1, Kanasu,
Gagana Shankar Layout,
Srirampura 2nd stage,
Mysuru - 570 034

**[By Sri.K.S.Mahadeva Prasad -
Adv.,]**

V/s

**Respondent/
s:**

Manju Timbers
Having office at :
No.2 Metagalli Post,
Contour Road,
Mahadeshwara Extension,
Mysuru

Represented by its proprietor
Sri Suresh,
Aged about 50 years.

[By Sri.R.J-Adv.,]

::JUDGMENT::

This is a criminal memorandum of Appeal filed under section 372 of Cr.P.C.R/w.SEc.419 of Bharatiya Nagarika Suraksha Sanhita, 2023 filed by the legal heirs of the Complainant and sought for, to set aside the acquittal Judgment passed by the I Addl.Civil Judge and JMFC., in C C

No.481/2021 dated 13.10.2025 in consequence convict the Accused / Respondent for the offence punishable U/Sec.138 of the Negotiable Instruments Act **by awarding double the cheque amount.**

2. For the sake of convenience, the rank of the parties to the instant appeal will be referred to their original ranks as they stood before the Trial Court.

3. **Nutshell of the complaint are as under:-**

The Respondent being the Accused and the Appellants being the Legal heirs of the complainant filed the private complaint U/Sec.200 of Cr.P.C. stating that who is the dealer of teak, Honne and other jungle wood having the shop in the name and style of Maruti Cut Size and Timber Depot. On 17.08.2019 the Accused has purchased round logs of 470.10 CFT Gana Teak Wood worth of Rs.5,54,718/- on credit bill bearing No.768, after purchasing the goods the Accused paid Rs.2,00,000/- through RTGS towards the part payment of the sale transactions and towards balance payment of the amount issued cheque bearing No.679405 dated 23.11.2020

for Rs.3,54,718/- drawn on Syndicate Bank,Vani vilas Mohalla Branch, Mysuru to discharge legally recoverable debt and assured if the cheque is presented it would be honoured, so believing the words of the Accused has presented the said cheque through his banker Karnataka Bank, Vivekananda nagar Branch, Mysuru , to the surprise and utter shock the said cheque was returned with an endorsement dated 27.11.2020 with a share “Funds Insufficient” and the said fact has been intimated to the Accused, but inspite of intimation the Accused did not come forward to pay the cheque amount, thereby, he has no other go except to issue legal notice to the Accused calling upon him to pay the cheque amount.

4. The complainant in the complaint further alleged that he got issued the legal notice on 21.12.2020 through the RPAD calling upon the Accused to pay the amount within stipulated period as per provisions of the Sec.138 of the Negotiable Instruments Act and the RPAD notice sent through RPAD has been returned as “not claimed” and the

Accused knowing fully well has not received the legal notice sent through RPAD and inspite of lapse of 15 days the Accused did not come forward to pay the cheque amount. The Accused knowing fully well that he has no sufficient funds in his account has issued cheque which falls within the purview of Sec.138 of the Negotiable Instruments Act. The cause of action for the case which arose on 17.08.2019 when the Accused purchased the teak wood worth of Rs.5,54,718/- and when the cheque has been issued to discharge the legally recoverable debt and when the cheque was dishonoured for want of sufficient funds on presentation and finally on issuance of notice within the jurisdiction of this Court and prays for convict the Accused by awarding double the cheque amount.

5. The complainant has presented the private complaint before the I Addl.I Civil Judge and JMFC., at mysore and the said Court taken the cognizance and directed the office to register as PCR, accordingly PCR No.112/2021 was came to be registered and after

considering the sworn statement and the documents on record registered the case against the Accused in Register No.III for the offence punishable U/Sec. 138 of the Negotiable Instruments Act and ordered for issue summons to the Accused through RPAD, in response of the summons the Accused has been appeared through his counsel and released on bail, complaint copies supplied to the Accused in view of Sec.207 of Cr.P.C. The court below recorded the Plea U/Sec.251 of Cr.P.C. was read over and explained in the language known by the Accused he was pleaded not guilty and claims to be tried.

6. The complainant in order to prove the complaint averments has examined the legal-heirs of the complainant namely Amulya Jagadish as pw1 and got marked the documents as Ex.P1 to 8 and they have not examined any witness on their behalf.

7. After completion of the complainant side evidence Accused statement U/Sec. 313 of Cr.P.C. was read over and explained in the language known by the Accused, he has

denied the incriminatory statement which appeared in the evidence of the complainant and examined himself as DW1 and he has not examined any witness on his behalf nor marked any document.

8. The court below heard the arguments on both side and raised the following :-

::POINTS::

- 1) Whether the complainant proves that, she has complied with all the mandatory requirements as contemplated under Section 138(a) of Negotiable Instruments Act?
- 2) Whether the complainant proves beyond all reasonable doubt that the accused has issued cheque bearing No.679405 dated 23.11.2020 for Rs.3,54,718/- drawn on Syndicate Bank, Vanivilas Mohalla Branch, Mysuru in favour of the complainant for dischargeing the legal debt or liability and thereby committed an offence punishable u/ s138 of N.I.Act?
- 3) What Order?

9. The court below answered the above points are as under :-

Point No.1 : In the **Affirmative**
Point No.2 : In the **Negative**
Point No.2 : **As per final order**

10. In consequence, acquitted the Accused for the offence punishable U/Sec. 138 of the Negotiable Instruments Act. So, feeling aggrieved by the said acquittal Judgment the legal-heirs of the complainant being the Appellants have filed the instant appeal for the following :-

::GROUNDS::

- (1) The court below erred in coming to the wrong conclusion and acquitted the Accused which is not in accordance with law and the findings which recorded are illegal, erroneous, wrongly shifted burden on the complainant after initial presumption and except self-serving oral evidence of the Accused.
- (2) The court below erred in coming to the wrong conclusion and misapplied the law relating to the security cheque and relied on contradiction that do not affect core ingredients of Sec.139 of the Negotiable Instruments Act and draw adverse inference from matters out side the

pleadings and evidence and failed to apply mandatory statutory presumption U/Sec. 118 and 139 of the Negotiable Instruments Act and committed grave error in holding that the complainant failed to prove the legally enforceable debt as on the date of issuance of cheque.

- (3) The court below erred in coming to the wrong conclusion that the defence of security cheque is not a valid defence in law though the Accused admitted about issuance of the cheque to the complainant and set up defence that the cheque has been issued as security and defence which taken is untenable which is not acceptable one.
- (4) The court below erred in coming to the wrong conclusion and accepted the defence of the Accused without documentary proof and misread and misappropriated Ex.P 11 and multiple payments does not pertain to Ex.P 7 unless proved by the Accused and the Trial Court in correctly used payments of other transaction to negate liability in the present transactions.
- (5) The court below erred in coming to the

wrong conclusion and heavily relied on PW1 she does not know cash transactions of her father relating to cheque documents and dates, such contradictions of PW1 were minor and not material and the court below has not applied its judicial mind.

- (6) The court below erred in coming to the wrong conclusion when the Accused admitted giving cheque for the transaction and relationship though the Accused has not produced document rebutting the presumption even then come to the wrong conclusion which is not in accordance with law and prays for allow the appeal and set-aside the acquittal Judgment which passed by the court below and convict the Accused and award double the cheque amount and prays for allow the Appeal.
11. In response of the notice the Respondent has been appeared through his counsel.
12. Heard the arguments on both side.
13. The points that arise for Court consideration are as under :-

::POINTS::

1) Whether the appellants have made out the grounds that the court below without considering the oral and documentary evidence and settled principles of law in a prospective manner has come to the wrong conclusion and acquitted the Accused / Respondent which is not in accordance with law?

2) Whether the appellants have made out the grounds that the acquittal Judgment which passed by the court below is perverse, illegal and capricious and interference of this Court is warranted?

3) What Order?

14. My answer to the above points are as under:

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

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

Point No.3: As per final order

for the following:

::REASONS::

15. **Point Nos.1 and 2** : These points are inter-

related to each other, in order to avoid the repetition of facts and materials on record these points are discussed together. It is the specific case of the Appellants that one M.Jagadish Chandra being the proprietor of Maruti Cut Size and Timber Depot has approached the court below on the ground that the Accused has purchased the teak wood worth Rs.5,54,718/- on credit basis and paid Rs.2,00,000/- and for the remaining balance amount has issued the cheque and assured if the cheque is presented it would be honored, so believing the words of the Accused presented the cheque which came to be dishonored, though this fact was brought to the notice of the Accused the Accused did not come forward to pay the cheque amount, thereby, the case was came to be filed against the Accused and the Accused has been appeared and faced the trial which ended with acquittal. So feeling aggrieved by the said acquittal Judgment the legal-heirs of the complainant have filed the instant appeal.

16. The learned Counsel for the complainant /

Appellants in his arguments has submitted one M.Jagadish Chandra being the proprietor of Maruti Cut Size and Timber Depot, has filed the complaint, pending of the complaint was passed away and his legal-heirs brought on record and during his life time was running the timber depo and the Accused purchased the teak wood worth of Rs.5,54,718/- on credit basis and after purchasing the goods has paid Rs.2,00,000/- only and for balance of Rs.3,54,718/- has issued cheque dated 23.11.2020 to discharge legally recoverable debt and assured if the cheque is presented it would be honoured, believing the words of the Accused presented the cheque through his banker which came to be dishonored for want of sufficient funds, though this fact was brought to the notice of the Accused but the Accused did not come forward to pay the cheque amount, thereby, got issued the legal notice calling upon him for payment of the cheque but inspite of the legal notice did not come forward to pay the cheque amount, thereby, the case has been filed against the Accused. The Accused in response of the summons has been appeared and taken up the contention

that he has issued the cheque towards the security, but nothing has been placed on record to substantiate the same, though the Accused has admitted about the business transaction and the signature which appeared in the cheque, but the court below without appreciating the oral and documentary evidence in a prospective manner come to the wrong conclusion and acquitted the Accused which is not in accordance with law as the DW1 in cross-examination has categorically admitted about his relationship with the complainant and the business transaction, though has taken up the contention that the cheque has been issued as security, but nothing has been proved through oral and documentary evidence, on the other hand, the Plaintiff has proved his case through the oral and documentary evidence , but the court below without considering the oral and documentary evidence in the prospective manner and come to the wrong conclusion and acquitted the Accused which is not in accordance with law, therefore, interference of this Court is warranted and prays for allow the appeal.

17. Per contra, the learned Counsel for the Respondent in his arguments has submitted the appeal which is filed is not maintainable in law or on facts but the court below by appreciating the oral and documentary evidence in a prospective manner rightly come to the conclusion the complainant has failed to prove through the oral and documentary evidence about the existence of the legally recoverable debt and issuance of cheque towards legally recoverable debt that is the reason why the court below after considering the oral and documentary evidence in a prospective manner has rightly acquitted the Accused so, question of interference of this Court does not arise, even if the deposition and complaint filed in C C No.340/2022 are taken into consideration it is clear the complainant has filed false complaint against the Accused that is the reason why the court below after considering the oral and documentary evidence in a prospective manner has rightly acquitted the Accused, so question of interference of this Court does not arise and prays for dismiss the appeal.

18. The legal heirs of the complainant in order to prove the complaint averments has examined the daughter of the complainant namely Amulya jagadish has filed her affidavit as her chief-examination as pw1 by reiterating the complaint averments stating that her father was proprietor of Maruti Cut Size and Timber Depot, and dealer of teak, honne and other jungle wood. The Accused purchased teak wood worth Rs. 5,54,718/- on 17.08.2019, after purchasing goods has paid Rs.2,00,000/- through RTGS, part payment of the sale transaction and towards balance payment has issued the cheque for Rs.3,54,718/-, to discharge legally recoverable debt and assured if the cheque is presented it would be honoured, believing the words of the Accused her father has presented cheque which was came to be returned with an endorsement "Funds Insufficient" in the bank account of the Accused, though this fact was brought to the notice of the Accused but the Accused did not come forward to pay the cheque amount, thereby, got issued the legal notice to the Accused on 21.12.2020 calling upon the Accused for payment of the cheque amount, but the

accused inspite of the notice did not come forward to pay the amount, the Accused knowing fully well that he has no sufficient funds in his account even then has issued the cheque which falls within the purview of Sec.138 of the Negotiable Instruments Act. The PW1 in her cross-examination has admitted that she has studied up to degree and Jagadish Chandra is none other than her father and who passed away in the month of September 2021 because of ill-health and admitted her father was doing business transaction with Accused and she is aware of the said business transaction and she is also partner of the said company and she knows all the transaction and admitted as per Ex.P11 the Accused had paid Rs.8,50,000/- and pleaded ignorance about payment in cash of Rs.2,59,000/- and also admitted there is a C.C. No.340/2022 pending against the Accused and denied the Accused has a issued the cheque during the business transaction in favour of her father for the security and for the wrongful gain her father has filed the instant case and denied the Accused has paid entire amount towards the purchase of the teak wood and

denied her father has not intimated to the Accused about the lodging of the complaint and he has no right to question the business transaction which taken place in between her father and the Accused and denied the Accused has already paid entire amount as he is not due to any payment and the cheque is not relating to the present case and admitted signature which appeared on Ex.P2.

19. The Accused in order to prove his defence has examined himself as DW1 stating that in the year 2019 had purchased the wood from the complainant worth of Rs.10,00,000/- and he has repaid the said amount on installment and at the time of purchasing of the wood had issued 2 blank cheques as security, though after clearing the dues has requested to return the cheque but the complainant misused the cheque and filed false complaint. The DW1 in the cross-examination has admitted that he has paid entire due amount to her father though after payment has requested to return the blank cheques but the father of the PW1 has postponed the same one or other

reason and he was passed away and filed the instant case by misusing the cheque and admitted the Ex.P7 is the business transaction document and on 23.06.2020 has paid Rs.2,00,000/- and remaining balance of Rs.3,54,718/- has issued cheque and the said cheque is marked as Ex.P2 and the signature which appeared in Ex.P2 is belongs to him and admitted the complainant use to issue receipt of the business transaction and denied that he is due to the complainant because of that reason has issued the cheque to discharge legally recoverable debt.

20. The learned Counsel for the Appellants while canvassing his arguments has submitted that the Respondent being the Accused has purchased the teak wood worth of Rs.5,54,718/- on credit bill bearing No.768 out of which paid only Rs.2,00,000/- for the due amount of Rs.3,54,718/- has issued a cheque, on presentation it was dishonored for want of sufficient funds in the Accused account and pending of the complaint the complainant passed away and his legal-

heirs brought on record, even the Accused has not disputed the relationship with the complainant though the complainant proved the case, but the court below acquitted the Accused which is not in accordance with law, but whereas the learned Counsel for the Respondent while canvassing his arguments has submitted though the Respondent has purchased the teak wood has paid the entire amount after considering the oral and documentary evidence in the prospective manner by the court below rightly acquitted the Accused, so question of interference of this Court does not arise. So, before considering the oral and documentary evidence and the arguments which advanced it is just and necessary to consider the legal aspect first for the proper appreciation. Thus this Court drawn its attention on Sec.138 of N.I.Act which reads like thus:

"138. Dishonour of cheque for insufficiency, etc., of funds in the account. —Where any cheque drawn by a person on an account maintained by

him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for [a term which may be extended to two years], or with fine which may extend to twice the amount of the cheque, or with both: Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, [within thirty days] of the receipt of information by him from the bank

regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.”

21. The above provision is very much clear, in order to bring the case within the ambit of section 138 of Negotiable Instrument Act, one has to comply the mandatory provisions which referred above then only it can be said that the case falls within the purview of sec. 138 of N.I.Act.

22. Thus this court drawn its attention on Sec.118 of N.I.Act which reads like this:

Sec. 118. Presumptions as to negotiable instruments:-- Until the contrary is proved, the following presumptions shall be made:

a) of consideration: that every negotiable instrument was made or drawn for consideration, and that every such instrument when it has been accepted, indorsed, negotiated

or transferred, was accepted, indorsed, negotiated or transferred for consideration:

- b) as to date: that every negotiable instrument bearing a date was made or drawn on such date:**
- c) as to time of acceptance: that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity:**
- d) as to time of transfer: that every transfer of negotiable instrument was made before its maturity:**
- 3) as to order of indorsement: that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon:**
- f) as to stamp: that a lost promissory note, bill of exchange or cheque was duly stamped:**
- g) that holder is a holder in due course: that the holder of a negotiable instrument is a holder in due course:**

23. The above provision is very much clear the court has to draw presumption unless the contrary is proved. Thus this Court drawn its attention on section 139 of Negotiable

Instrument Act which reads like this :

**139: Presumption in favour of holder:
It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque, of the nature referred to in Section 138 of N.I.Act for the discharge, in whole or in part, of any debt or other liability."**

24. The above provision is very much clear it shall be presumed unless the contrary is proved that the holder of the cheque received the cheque of the nature referred to in section 138 of the Negotiable Instrument Act for discharge in whole or in part of any debt or other liability.

25. So, keeping the provisions which stated supra in mind now let me know the oral and documentary evidence on record as the learned Counsel for the complainant while canvassing his arguments has submitted that during the cross-examination of the PW1 has suggested that the Accused has paid the entire amount in respect of purchasing of wood from her father for which the PW1 has denied the same so for the proper appreciation of the question which posed by the learned Counsel for the Accused to the PW1

and the answer which given is necessary for reproduction which reads like thus:-

ಆರೋಪಿ ತಾನು ಖರೀದಿ ಮಾಡಿದ ಮರದ ಬಾಬು ಸಂಪೂರ್ಣ ಹಣವನ್ನು ನನ್ನ ತಂದೆಗೆ ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಪ್ರಕರಣ ದಾಖಲಿಸಿರುವ ವಿಷಯವನ್ನು ಆರೋಪಿಗೆ ತಿಳಿಸಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ವ್ಯವಹಾರ ನನ್ನ ತಂದೆ ಮತ್ತು ಆರೋಪಿ ನಡುವೆ ಮಾತ್ರ ಆಗಿರುವುದರಿಂದ ನನಗೆ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಹಾಜರಾಗಿ ಪ್ರಶ್ನೆ ಮಾಡಲು ಅಧಿಕಾರ ಇರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ.

26. So, if the question which posed by the learned Counsel for the Accused to the PW1 and the answer which given is taken into consideration it is clear the Accused has purchased the wood from the father of the PW1, according to the Accused has paid entire purchased amount but whereas the PW1 has denied the same, so one thing is clear from the suggestion which made by the learned Counsel for the Accused to the PW1 that the Accused has purchased the teak wood from the father of the PW1, though the Accused has suggested that he has paid entire amount for which the PW1 has denied the same, thus it is clear the Accused has

purchased the timber from the complainant father. Therefore, admitted fact need not be proved in view of Sec.58 of the Indian Evidence Act.

27. The learned Counsel for the Respondent while canvassing his arguments has much argued though the Accused has paid entire amount relating to purchase of wood from the complainant father and the complainant father has misused the cheque issued for the security and filed the false case, admittedly the learned Counsel for the Accused while cross-examination of the PW1 has suggested the PW1 that the Accused in connection of business transaction has issued a cheque for the security and her father has misused the cheque and filed the false complaint. So, for the proper appreciation of the suggestion and the answer which given by the PW1 is necessary for reproduction which reads like thus:-

ಆರೋಪಿ ನನ್ನ ತಂದೆಯ ಜೊತೆ ವ್ಯವಹರಿಸುತ್ತಿದ್ದಾಗ ಭದ್ರತೆಗಾಗಿ
ಇರಲಿ ಎಂದು ಚೆಕ್‌ನ್ನು ಕೊಟ್ಟಿದ್ದರು ಎಂದರೆ ಸರಿಯಲ್ಲ. ನನ್ನ ತಂದೆ
ಮೃತರಾದ ನಂತರ ಆರೋಪಿಯಿಂದ ಅಕ್ರಮವಾಗಿ ಹಣ ಪಡೆಯುವ

ದುರುದ್ದೇಶದಿಂದ ನಿಪಿ-1 ನ್ನು ನಗದೀಕರಣಕ್ಕಾಗಿ ಸಲ್ಲಿಸಿರುತ್ತೇನೆ
ಎಂದರೆ ಸರಿಯಲ್ಲ.

28. So, if the suggestion and answer given by the PW1 as stated supra is taken into consideration it is clear that the Accused has admitted about issuance of cheque in favour of the father of the complainant, but according to the Accused that he has issued a cheque in connection of business transaction as security, thus it is clear the Accused has not disputed about issuance of cheque

29. It is an admitted fact, the learned Counsel for the Accused while cross-examination of the PW1 has again suggested that the Accused has issued 2 cheques for the security and he has filled the cheque and misused the cheque and filed the false case, so for the proper appreciation of the suggestions and the answer which given by the PW1 is necessary for reproduction which reads like thus:-

ನಿಪಿ-2 ರ ಚೆಕ್‌ನ್ನು ಆರೋಪಿ ಭರ್ತಿ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಆರೋಪಿ
ಭದ್ರತೆಗಾಗಿ ನೀಡಿದ ನಿಪಿ-2 ಚೆಕ್‌ನ್ನು ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡು ಈ

ಪ್ರಕರಣವನ್ನು ದಾಖಲಿಸಿದ್ದೇನೆ ಅಂದರೆ ಸರಿಯಲ್ಲ. ನನ್ನ ತಂದೆಯ ಮರಣದ ಬಳಿ
ಆರೋಪಿ ನಮ್ಮ ಅಂಗಡಿಯಲ್ಲಿ ಮರವನ್ನು ಖರೀದಿ ಮಾಡಿರಲಿಲ್ಲ ಎಂದರೆ ಸರಿ.

30. So, if the question which posed by the learned Counsel for the Accused to the PW1 and the answer which given by the PW1 as stated supra are taken in to consideration the Accused again admitted about the issuance of cheque in favour of the father of the PW1 , though suggested that the Accused has not filled the cheque and misused the cheque which was issued for the security. Thus it is clear the Accused has admitted about issuance of cheque in favour of the father of the pw1. So, according to the Accused that he has not filled the Ex.P2 and father of the PW1 misused the cheque, but the reasons best known to the Accused even after his appearance has not filed any complaint against the very complainant on the ground that the complainant has misused the cheque which was issued for the security, if that is so the matter would have been different. Thus it is clear the Accused has admitted about the issuance of cheque in favour of father of PW1. Thus this Court drawn its attention on Sec.20 of the Negotiable

Instruments Act which reads like thus:-

“20. Inchoate stamped instruments.—

Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount; provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

The above provision is very much clear Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments

then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, gives prima facie authority to the holder thereof to make or complete the Negotiable instrument, for any amount specified therein. Thus it is clear the holder of the cheque having a prima-facie authority to complete the Negotiable Instruments Instrument. Thus the arguments which advanced by the learned Counsel for the Respondent on this aspect holds no water.

31. It is the specific case of the complainant that the Accused purchased the teak wood on credit bill bearing No.786 on 17.08.2019 worth of Rs.5,54,718/- out of which has paid only Rs.2,00,000/- for the remaining balance of Rs.3,54,718/- has issued a cheque for which the DW1 in the cross-examination has categorically admitted that he has paid Rs.2,00,000/- in connection of Ex.P7 on 23.06.2020 and for the balance amount has issued Ex.P 2 and the signature which appears in the Ex.P2 is belongs to him, so for the proper appreciation of the admission of the DW1

during his cross-examination is necessary for reproduction which reads like thus:-

ನಿಪಿ-7 ರ ವ್ಯವಹಾರದ ನಂತರ ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ಅವರ ಬಳಿ ಮುಂದುವರೆದು ವ್ಯವಹಾರ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ನಿಪಿ-7 ರ ವ್ಯವಹಾರಕ್ಕೆ ಸಂಬಂಪಟ್ಟಂತೆ ದಿನಾಂಕ **23.06.2020** ರಂದು ಎಂ ಜಗದೀಶ್ ಚಂದ್ರರವರಿಗೆ ರೂ **2** ಲಕ್ಷ ಹಣವನ್ನು ಪಾವತಿಸಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ಉಳಿದ ರೂ. **3,54,718/-** ರ ಮೊತ್ತಕ್ಕೆ ಒಂದು ಚೆಕ್‌ನ್ನು ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ರವರಿಗೆ ಕೊಟ್ಟಿದ್ದೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಚೆಕ್‌ನ್ನು ನಿಪಿ-2 ರಂತೆ ಇರುವ ಚೆಕ್‌ನ್ನು ಆಗಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ-2 ರಲ್ಲಿ ಇರುವ ಸಹಿ ನನ್ನದು ಎಂದರೆ ಸರಿ.

32. So, if the categorical admission of the DW1 during his cross-examination as stated supra is taken into consideration it is clear that the DW1 in the cross-examination has categorically admitted about the purchase of teak wood from M.Jagadeesh Chandra and in connection of the said transaction has paid Rs.2,00,000/- and for balance amount of Rs.3,35,718/- has issued a cheque. Therefore, admitted facts need not be proved in view of Sec.58 of the Indian Evidence Act.

33. Thus this Court drawn its attention on Sec.58 of

the Indian evidence Act, which reads like thus:-

"Section 58 of the Indian Evidence Act, 1872, establishes that facts admitted by parties or their agents before or during a hearing, or deemed admitted by pleadings, do not need to be proven. This principle facilitates faster trials by reducing unnecessary evidence, though courts retain discretion to require proof of admitted facts.

34. The above provision is very much clear facts admitted need not be proved and no fact need be proved in any proceeding which the parties they too or their agents agreed to admit at the hearing or which before the hearing they agreed to admit by any righting under their hands.

35. In the instant case the DW1 in the cross-examination has categorically admitted that he has purchased the teak wood from the complainant for which has

paid Rs.2,00,000/- for the balance amount has issued Ex.P2, therefore, it is clear that the Accused has issued a cheque to discharge legally recoverable debt, that is the reason why had issued a cheque in favour of M.Jagadish Chandra. Ex.P7 is the credit bill in which it is clear the Accused has purchased the teak wood from the complainant worth of Rs.5,54,718/- as the PW1 in the cross-examination as stated supra is categorically admitted that he has purchased the teak wood as per Ex.P7 and he has also admitted the signature which appeared on the Ex.P2 and also issuance of cheque to discharge legally recoverable debt in respect of the balance amount, so it is clear the as on the date of issuance of the cheque there was an existence of debt and the Accused has issued a cheque to discharge legally recoverable debt, therefore, the arguments which advanced by the learned Counsel for the Respondent on this aspect holds no water.

36. The learned Counsel for the Accused while canvassing his arguments has much argued that the Accused

has paid entire amount relating to the purchase of wood from the deceased M.Jagadish Chandra. Admittedly, the DW1 during his cross-examination has admitted about business transaction in between him and the deceased M.Jagadish Chandra and he has also admitted prior to Ex.P7 there was a business transaction in between him and the deceased and he has paid the entire amount in connection of the business till January 2020. thus one thing is clear after January 2020 the Accused has not paid any amount to the deceased M.Jagadish Chandra, so for the proper appreciation of the admission of the DW1 during his cross-examination is necessary for reproduction which reads like thus:-

"ನಾನು ಸದರಿ ಮೃತ ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ರವರ ಬಳಿ ವ್ಯವಹರಿಸುತ್ತಿದ್ದೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಗೆ ನಿಪಿ-7 ನ್ನು ತೋರಿಸಿ ಸದರಿ ಮೃತ ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ರವರ ಜೀವಿತಾವಧಿಯಲ್ಲಿ ನಾನು ಅವರ ಜೊತೆ ವ್ಯವಹರಿಸಿದ ಬಗ್ಗೆ ದಾಖಲೆ ಇದಾಗಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ-7 ರ ಪೂರ್ವದಲ್ಲಿಯೂ ಕೂಡ ನಾನು ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ರವರ ಜೊತೆ ವ್ಯವಹರಿಸಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ-7 ರ ಪೂರ್ವದಲ್ಲಿ ಮಾಡಿದ ವ್ಯವಹಾರಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಜನವರಿ 2020 ರ ವರೆಗೆ ಹಣವನ್ನು ಪಾವತಿಸಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ-7 ರ ವ್ಯವಹಾರದ ನಂತರ ಎಂ ಜಗದೀಶ್ ಚಂದ್ರ ರವರ ಬಳಿಮುಂದುವರೆದ ವ್ಯವಹಾರ ಮಾಡಿರುವುದಿಲ್ಲ

ಎಂದರೆ ಸರಿ.”

37. So, if the admission of the DW1 as stated supra is taken into consideration it is clear that there was a business transaction in between the deceased M.Jagadish Chandra and the Accused and the Accused has paid the amount till January 2020 in respect of purchasing of wood. Admittedly, the cheque has been issued on 23.11.2020. if at all the Accused was not due to any amount to the deceased question of issue of cheque on 23.11.2020 does not arise as the DW1 during his cross-examination has categorically admitted that he has paid cash amount till January 2020. after the Ex.P7 has not been continued the business transaction, and he has also admitted in connection of Ex.P7 has issued a cheque. Therefore, it is clear the Accused had purchased the teak wood from the complainant for Rs.5,54,718/- out of which has paid only Rs.2,00,000/- for the due amount has issued Ex.P2 which came to be dishonored. But the court below without considering the oral and documentary evidence and vital admission of the DW1

has come to the wrong conclusion and acquitted the Accused which is not in accordance with law.

38. It is an admitted fact, the presumption arises in favour of the complainant as per Sec.118 and 139 of the Negotiable Instruments Act which stated supra though it is a rebuttable presumption but the Accused has not placed any iota of materials to show that he has rebutted the presumption which available to the complainant. On the other hand, the Accused not only cross-examination of the PW1 but also in his evidence has categorically admitted about the issuance of cheque in favour of the complainant in connection of Ex.P7 and failed to prove through oral and documentary evidence that he has issued a cheque for the security of the business transaction, but the court below without appreciating the oral and documentary evidence in a prospective manner and without considering the vital admission of the DW1 as stated supra and the documents marked as Ex.P1 to Ex.P11 has come to the wrong conclusion and acquitted the Accused which is not in

accordance with law, thus the acquittal Judgment which passed by the court below is perverse, illegal and capricious and interference of this Court is warranted, hence, I am of the opinion that the ***Point No.1 and 2 are answered in the Affirmative.***

39. **Point No.3**:- In view of my answer to the point No.1 and 2 as stated above, I proceed to pass the following:

::ORDER::

The Appeal filed Under Sec. 372 of Cr.P.C. R/w.Sec.419 of Bharatiya Nagarik Suraksha Sanhita, 2023, is hereby ***Allowed***.

The acquittal Judgment which passed by the I Addl.Civil Judge and JMFC., at Mysuru in C.C.No.481/2021 dated 13.10.2025 is hereby ***Set-Aside***.

In consequence, the Respondent / accused is convicted for the offence punishable U/sec.138 of the Negotiable Instruments Act and sentenced to pay fine of Rs.3,60,000/-, in default shall

undergo simple imprisonment for 6 months, on deposit of the fine amount shall pay Rs.3,55,000/- to the complainant as compensation and remaining Rs.5,000/- shall be defrayed to the state.

Office is hereby directed to return the TCR with copy of the Judgment forthwith to the Trial Court.

(Dictated to the Stenographer Grade-III, transcribed by her and then corrected by me, signed and pronounced in the Open Court this the **07th day of April 2026**).

(P.J. SOMASHEKHAR)
IV Addl. District & Sessions
Judge, Mysuru.