

KAMS010096622025



**IN THE COURT OF THE III ADDL.DISTRICT AND
SESSIONS JUDGE: MYSURU.**

PRESENT

Sri. **Gururaj Somakkalavar**, M.A.,LL.B.,
III Addl.District & Sessions Judge, Mysuru.

CRL.R.P./233/2025

Dated this the 28th day of March, 2026

**Revision
Petitioner:**

Manchaiah S s/o Siddegowda,
aged about 41 years, r/a
Siddaramanahundi village,
Varuna Hobli, Mysuru Taluk and
District.

[By Sri.H.C.Rajesh, Adv.,]

V/s

Respondent

Mahesh S s/o Shjvarayigowda,
aged about 44 years, r/a
Hosahalli village, Varuna Hobli,
Mysuru Taluk and District.
Working at : KSBCL IML DEPO,
TAPCMS Godown, Site No.140,
Maragowdanan Halli Extension,
Bannimantap 'A' Layout, Mysuru.

ORDER ON REVISION PETITION FILED U/SEC.438 OF
B.N.S.S

The revision petitioner/complainant in CC. No.2117/2020 has filed this Revision petition challenging the order dated 20.11.2025 passed by the JMFC III Court, Mysuru.

2. The rank of the parties is being stated as per the complaint before the Trial Court.

3. The Revision petitioner has urged the following grounds for revision in support of his petition that,

The impugned order is contrary to law and evidence or material on record. The order is illegal, improper and incorrect. The trial court has not given sufficient opportunity to the petitioner. The trial court erred in dismissing the case for default. The trial court has not looked into the documents produced by the petitioner.

Hence, Revision petitioner/complainant prays to allow this revision petition.

4. The notice issued to the respondent, the same is duly served. Respondent remained absent.

5. In view of the rival contentions raised by the

parties, the points that arise for my consideration is:

1. Whether the petitioner has made out a ground to allow the petition?
2. What Order?
6. My findings to the aforesaid points is:

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

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

REASONS

Point No.1:-

7. The revision petitioner herein has questioned the order dated 20.11.2025 in C.C. No.2117/2020 on the file of JMFC III Court, Mysuru. Where, the trial court has dismissed the complaint of the complainant/petitioner for non-prosecution.

8. Before adverting into the merits of the present petition it is necessary to look into the version of the complainant and also development before the trial court. The present petitioner herein is the complainant and the respondent herein is the accused before the trial court. The complainant has launched prosecution U/s.200 of Cr.P.C., for the offence punishable U/s.138 of N.I.Act. It is the

version of the complainant that accused and the complainant are known to each other from past several years and on this acquaintance the accused approached complainant and explained his family problem and requested loan. The accused has borrowed loan of Rs.1,50,000/- from the complainant for clearing hand loan, health problem ad other legal necessities and he agreed to repay the said amount within six months. After six months when the complainant requested the accused to repay the said amount. At that time, accused issued post dated cheque bearing No.909011 dated 10.10.2014 for Rs.1,50,000/-. On presentation of the same through the banker the cheque got dishonored with endorsement funds insufficient. The complainant has issued legal notice to the accused on 29.10.2014 calling upon the accused to pay cheque amount of Rs.1,50,000/-. The said notice served on the accused. But inspite of that, he has not paid the amount, since the cheque got dishonored, the accused has committed the offence punishable U/s.138 of N.I.Act. Hence the complaint.

9. After filing of the complaint, the cognizance was taken. The case is registered as C.C.No.2117/2020. After that summons issued to accused, since the accused has

not appeared NBW issued against the accused. Since then the warrant is issued from 18.9.2021 to 22.8.2025. After that, the court observing the case is pending since 2020 and the complainant remained absent. The complainant is not showing interest to contest the case to take appropriate steps in securing the accused. With these observation the case came to be dismissed for non-prosecution. Now, the appellant aggrieved by the said order preferred this revision petition.

10. It is to be appreciated here that, the complainant has filed the complaint in the year 2019. From then there was COVID period till 2021. After that, as per the proceedings, number of times warrant is issued against the accused to secure him before the court, but same is not executed. The complainant even got issued the warrant against the accused with the assistance of jurisdictional police. However, the accused could not be traced. Now, the court holding that the complainant has not taken appropriate steps to secure the accused, dismissed the case for non-prosecution. The observation of the trial court is not correct in view of this court, as because, the first two years spent during the COVID period, after that since 2022 number of warrants were issued against the

accused, but still he has not been secured. It is not clear whether the accused is intentionally avoided those warrants. Such being the case, the complainant should not suffer for the same.

11. Moreover, it is very important to observe here that as per the complainant case, he has paid Rs.1,50,000/- to the accused. The accused has issued the cheque which got dishonored and by that the accused has committed offence punishable U/s.138 of N.I.Act. The stake involved Rs.1,50,000/- of complainant. He has got a right to prosecute against the accused and get the compensation of the said amount and get the punishment for the commission of offence by the accused. However, all the facts are subject to scrutiny in the trial. But, the dismissal of the complaint without giving opportunity is amounts to denial of the right of the complainant. Hence, this court is of the view that the observation of the trial court is erroneous and the order of the trial court needs to be set aside. Accordingly, the impugned order is set aside, the revision petitioner has made out grounds to allow the petition. Accordingly, petition is allowed, matter is remanded back to the trial court for fresh disposal, giving opportunity to the complainant to prosecute the complaint

effectively. If the court come to conclusion that the complainant is not prosecuting the case effectively, the court may pass appropriate orders. Petition allowed. Accordingly, point No.1 held in **Affirmative**.

POINT No. 2:-

12. In the result, this court proceed to pass the following:

ORDER

The petition filed by the petitioner U/Sec.438 of B.N.S.S is hereby **allowed**.

The order dated 20.11.2025 in CC. No.2117/2020 on the file of JMFC III Court, Mysuru, is hereby **set aside**.

The matter is remanded back for fresh disposal giving opportunity to the complainant to prosecute the complaint effectively, failing which the court may pass appropriate orders.

(Dictated to the stenographer on computer, corrected and then pronounced by me in the Open Court, on this the **28th day of March, 2026**)

[Gururaj Somakkalavar]
III Addl. District & Sessions Judge,
Mysuru.