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**IN THE COURT OF THE HONOURABLE I ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

PRESENT: SMT.ASRINA.,B.A, LLB.
I ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.

DATED THIS 2ND DAY OF MAY, 2026

O.S.No.40/2018

BETWEEN

PLAINTIFF	<p>Shri.Rajegowda S/o Late.Chotegowda Aged: 58 years R/at: Kargahalli Koppalu Village, Hosa Agrahara Hobli, K.R.Nagar Taluk, Mysuru District.</p> <p>(By Shri.B.K.N. Advocate)</p>
DEFENDANT	<p>Shri.Sridhara S/o Murthygowda Aged: 50 years R/at Hampapura Village, Hosa Agrahara Hobli, K.R.Nagar Taluk, Mysuru District</p> <p>(By Shri.A.P. Advocate)</p>

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Date of Institution of suit	30/01/2018
Nature of suit	Suit for Recovery of Money based on Pronote
Date of recording of evidence	18/02/2021
Date of Judgment	02/05/2026
Total duration	Year/s Month/s Day/s -08- -03- -03-

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.

J U D G M E N T

Plaintiff has filed this suit as against the defendant for recovery of a sum of Rs.1,28,000/- (Rupees One Lakh Twenty Eight Thousands only) with future interest from the date of this suit till the date of its actual payment, for costs of the suit and for such other reliefs.

2. The Brief facts of Plaintiff's case is as under:

It is the case of plaintiff that himself and the defendant are known to each other. It is the case of the plaintiff that on the basis of said relationship on 02/02/2015 the defendant had approached the plaintiff and requested him to give hand loan of Rs.75,000/- (Rupees Seventy Five Thousands Only) to him for the purpose of

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his urgent financial necessities and to clear his debts. It is the case of the plaintiff that accordingly on the very same date the plaintiff has lent hand loan of Rs.75,000/- (Rupees Seventy Five Thousands Only) to the defendant. It is the case of the plaintiff that the defendant has obtained the hand loan of Rs.75,000/- (Rupees Seventy Five Thousands Only) from the plaintiff agreeing to repay the said sum with the interest at the rate of 2% per annum to the plaintiff as and when the plaintiff demands. In that regard, the defendant has also executed an On Demand Pronote dated 02/02/2015 along with consideration receipt on the very same date. It is the case of the plaintiff that subsequently he approached the defendant and requested him to repay the loan amount of Rs.75,000/- along with interest. It is the grievance of the plaintiff that in spite of his repeated demands, the defendant has failed to repay the loan amount of Rs.75,000/- along with interest as agreed by him. Therefore, ultimately the plaintiff has issued a legal notice dated 11/01/2018 to the defendant calling upon to him to repay the loan amount of Rs.75,000/- along with interest at the rate of 2% per annum. The said legal notice sent to the defendant was duly served on him. In spite of service of legal notice, the defendant did not complied the demands made by the plaintiff in the said notice nor did the defendant has replied the said notice. Therefore, on failure of the defendant to repay the loan amount of Rs.75,000/- along with the interest, the plaintiff has filed the present suit for recovery of the aforesaid sum along with

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the future interest. According to the plaintiff, the cause of action to file the present suit arose on 02/02/2015, the date on which the defendant has borrowed the loan from the plaintiff, on 11/01/2018 the date on which the plaintiff has issued a legal notice to the defendant and on all subsequent dates when the defendant has failed to repay the loan amount to the plaintiff along with interest. Therefore, with the above plea, plaintiff has prayed to decree the suit.

3. Initially the above suit was decreed Ex-parte on 18/03/2021. Subsequently, by an order dated 01/03/2024 passed in Mis. Case No.9/2023, this case was restored by setting aside the Exparte decree which was passed earlier. After the restoration, the defendant has entered his appearance before this court through his counsel. The defendant has filed his written statement by resisting the claim of the plaintiff made in this suit and there by the defendant has contested the above suit by filing his detailed written statement.

4. The defendant has filed his written statement wherein he has denied borrowing loan of Rs.75,000/- (Rupees Seventy Five Thousands Only) from the plaintiff. The contention of the plaintiff that the defendant has agreed to repay the loan of Rs.75,000/- with interest at the rate of 2% per annum was also specifically denied by the defendant. So also the defendant has vehemently denied the execution of alleged On Demand Pronote along with

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consideration receipt dated 02/02/2015 in favour of the plaintiff for a sum of Rs.75,000/-. By denying rest of the plaint averments the defendant has categorically contended that the defendant is not at all familiar with the plaintiff and that the plaintiff is totally a stranger to the defendant. It is the contention of the defendant that the plaintiff being a stranger to him, there was no any sorts of monetary transaction in between himself and the plaintiff at any point of time. It is the contention of the defendant that the plaintiff and one Mr.Boranayaka S/o Thammaiah Nayaka are friends and both of them are indulged in money lending business. It is the contention of the defendant that in the year 2015, he had borrowed loan of Rs.60,000/- from aforesaid Mr.Boranayaka S/o Thammaiah Nayaka. It is the contention of the defendant that at the time of borrowing of aforesaid loan from aforesaid Mr.Boranayaka S/o Thammaiah Nayaka, he had obtained the signatures of the defendant in two blank stamp papers and aforesaid Mr.Boranayaka had also obtained a blank cheque of the defendant as a security for repayment of loan of Rs.60,000/-. It is the contention of the defendant that by misusing one of the blank stamp papers so obtained from the defendant, the aforesaid Mr.Boranayaka had filed a suit in O.S.No.198/2018 as against the present defendant for recovery of money. The said suit filed by Mr.Boranayaka in O.S.No.198/2018 was decreed exparte, thereafter which aforesaid Mr.Boranayaka had filed a Execution case in Ex.case No.132/2018 as against the defendant. It is the

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contention of the defendant that after receiving a sum of Rs.1,55,000/- from the defendant, Mr.Boranayaka has closed the Ex.case No.132/2018 as settled. It is the contention of the defendant that in spite of receiving entire loan amount from the defendant along with interest, aforesaid Mr.Boranayaka had filed a false case as against the defendant in C.C.257/2021 for the offence punishable under Sec.138 of N.I.Act by misusing the cheque of the defendant which was obtained by Mr.Boranayaka as a security. It is the contention of the defendant that by considering the said fact, the defendant herein was acquitted in C.C.No.257/2021. It is the contention of the defendant that after misusing the one blank pronote and one blank cheque which was obtained as a security by Mr.Boranayaka, the remaining one more blank stamp paper was again misused by Mr.Boranayaka by creating same as this suit pronote and got this suit filed through the present plaintiff herein, who is totally a stranger to the defendant. Therefore, it is the contention of the defendant that by misusing the blank signed stamp paper, which was obtained as a security from the defendant for repayment of loan amount of Rs.60,000/-, aforesaid Mr.Boranayaka has filed this false suit through the present plaintiff. It is the contention of the defendant that only with an malafide intention of making unlawful gain, the plaintiff has filed this false suit by colluding with aforesaid Mr.Boranayaka. The defendant has contended that by suppressing all the true and material facts the plaintiff has filed

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the present false suit. The defendant has contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiff is false and fictitious. The plaintiff has not approached this court with clean hands. The above suit being the false suit the defendant has prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendant has prayed to dismiss the suit with costs.

5. On the basis of above pleadings and rival contentions following Issues were framed:

1. Whether the plaintiff proves that on 02.02.2015 the defendant borrowed hand loan of Rs.75,000/- from him?
2. Whether the plaintiff proves that at the time of borrowing the loan, the defendant has executed an on demand promissory note along with consideration receipt dated 02.02.2015 agreeing to repay the loan of Rs.75,000/- along with the interest at the rate of 2% per annum?
3. Whether the defendant proves that as a security for repayment of loan of Rs.60,000/-, the witness to the suit pronote namely Mr.Boranayaka S/o Thammayya Nayaka had obtained his signatures in blank stamp papers and by misusing the same, said Mr.Boranayaka has concocted the suit pronote?

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4. Whether the plaintiff is entitled to the reliefs as sought for?

5. What order or decree?

6. In order to establish the case of the plaintiff, plaintiff has examined himself as Pw.1 and got marked Exhibit P-1 to Ex.P-3 documents. In support of his case, the plaintiff has also examined one of the attesting witness to the Ex.P-1 Pronote as Pw.2. On the other hand, in order to nullify the claim of the plaintiff and to prove his defence, the defendant has entered the witness box and examined himself as Dw-1 and got marked Exhibit D-1 to Ex.D-10 documents. In support of his case, the defendant has also examined one independent witness as Dw.2. Thereafter the trial was concluded and the case was posted for arguments on merits.

7. Heard arguments from both the sides.

8. On perusal of the pleadings, oral and documentary evidence placed before the court, my findings to the above Issues are as hereunder:

Issue No.1: In the Negative.

Issue No.2: In the Negative.

Issue No.3: In the Affirmative

Issue No.4: In the Negative.

Issue No.5: As per the final orders for the following:

REASONS

9. ISSUE NO.3: Before discussing the Issues No.1 and 2, I feel it apposite to decide the Issue No.3 first. Accordingly, the Issue No.3 is taken up for prior discussion.

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10. It is the case of the plaintiff that on 02/02/2015 the defendant had borrowed a sum of Rs.75,000/- (Rupees Seventy Five Thousands Only) from the plaintiff as a hand loan and for the repayment of the said loan, the defendant has also executed On Demand Pronote agreeing to repay the loan amount of Rs.75,000/- with the interest at the rate of 2% per annum.

11. On the other hand, the defendant has heavily contested this suit by contending that the plaintiff herein is a stranger to him. It is the contention of the defendant that the plaintiff as well as one Mr.Boranayaka S/o Thammaiah Nayaka are friends and both of them are indulged in money lending business. It is the contention of the defendant that in the year 2015, he had borrowed loan of Rs.60,000/- from aforesaid Mr.Boranayaka S/o Thammaiah Nayaka and at the time of borrowing of loan, aforesaid Mr.Boranayaka S/o Thammaiah Nayaka had obtained the signatures of the defendant in two blank stamp papers and aforesaid Mr.Boranayaka had also obtained a blank cheque of the defendant as a security for repayment of loan of Rs.60,000/-. It is the contention of the defendant that by misusing one of the blank stamp papers as well as the cheque so obtained from the defendant, the aforesaid Mr.Boranayaka has already filed a suit in O.S.No.198/2018 as well as a cheque bounce case in C.C.No.257/2021. It is the contention of the defendant that after misusing the one blank pronote and one blank cheque which was obtained as a security by Mr.Boranayaka, the remaining one more

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blank stamp paper is again misused by Mr.Boranayaka by creating the same as this suit pronote and got this suit filed through the present plaintiff herein, who is totally a stranger to the defendant. Hence, in view of the said contention taken up by the defendant, the Issue No.3 was framed casting burden on the defendant to prove the same.

12. In order to discharge the burden casted on him, the defendant examined himself as Dw.1 and the defendant has relied on Ex.D-1 to Ex.D-10 documents.

13. At para No.2 of the plaint, the plaintiff has stated that himself and the defendant are known to each other. The same is extracted below:

ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿಗಳಿಬ್ಬರೂ ಪರಸ್ಪರ ಚಿರಪರಿಚಿತರಾಗಿದ್ದು, ಸದರಿ ಪರಿಚಯದ ಆಧಾರದ ಮೇಲೆ ಪ್ರತಿವಾದಿ ವಾದಿಯವನ್ನು... .

14. The plaintiff is examined as Pw.1. At para No.1 and 3 of his cross-examination, the plaintiff has deposed as under:

1. ನಿಪಿ.1 ರ 1ನೇ ಸಾಕ್ಷಿದಾರರಾದ ಬೋಲನಾಯಕ ಬಿನ್ ತಮ್ಮನಾಯಕ ರವರು ನನ್ನ ಸಂಬಂಧಿಕನಲ್ಲ ಆದರೆ ನನ್ನ ಪರಿಚಯಸ್ಥರು. ಸುಮಾರು 10-15 ವರ್ಷಗಳಿಂದ ನಾನು ಮತ್ತು ಸದರಿ ಬೋಲನಾಯಕರು ಪರಿಚಯಸ್ಥರು ಎಂದರೆ ಸರಿ.

3. ನನಗೆ ವೈಯಕ್ತಿಕವಾಗಿ ಪ್ರತಿವಾದಿಯ ಪರಿಚಯವಿಲ್ಲ. ನನಗೆ ನಿಪಿ.1 ರ ಸಾಕ್ಷಿದಾರರಾದ ಬೋಲನಾಯಕರವರ ಮೂಲಕ ಪ್ರತಿವಾದಿಯ ಪರಿಚಯವಾಗಿರುತ್ತದೆ.

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15. The above testimony of plaintiff/Pw.1 is contrary to the very own pleading made by him at para No.2 of the plaint. Though at para No.2 of the plaint the plaintiff has pleaded that himself and the defendant are known to each other and it is on the basis of the said relationship the defendant has borrowed loan from him, but in his cross-examination referred above, the plaintiff/Pw.1 has deposed that he is not personally familiar with the defendant and rather it is through his friend Mr.Boranayaka, the defendant is known to him. Hence, the very claim of the plaintiff that on the basis of his past relationship with the defendant he had lent loan to the defendant is falsified by his own testimony referred above.

16. Ex.P-1 is a on demand pronote with consideration receipt dated 02/02/2015. In his cross-examination referred above at para No.1 and 3, the plaintiff has categorically admitted that the witness No.1 to the Ex.P-1 pronote namely Mr.Boranayaka is his known person from past 10 to 15 years. Further, at para No.1 and 2 of his cross-examination, the plaintiff/Pw.1 has also deposed that earlier said Mr.Boranayaka had obtained loan from him and therefore, said Mr.Boranayaka had signed as a witness to the Ex.P-1 Pronote. The relevant portion of cross-examination of Pw.1 at para No.1 and 2 are extracted below:

1. ನಿಪಿ.1 ರ 1ನೇ ಸಾಕ್ಷಿದಾರರಾದ ಬೋಲನಾಯಕ ಬಿನ್ ತಮ್ಮನಾಯಕ ರವರು ನನ್ನ ಸಂಬಂಧಿಕನಲ್ಲ ಆದರೆ ನನ್ನ ಪರಿಚಯಸ್ಥರು. ಸುಮಾರು 10-15 ವರ್ಷಗಳಿಂದ ನಾನು ಮತ್ತು ಸದರಿ ಬೋಲನಾಯಕರು ಪರಿಚಯಸ್ಥರು ಎಂದರೆ ಸರಿ. ಸಾಮಾನ್ಯವಾಗಿ ನಾನು

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ಮತ್ತು ಸದರಿ ಬೋಲನಾಯಕರು ಒಟ್ಟಿಗೆ ವ್ಯವಹಾರವನ್ನು ಮಾಡುತ್ತೇವೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಸದರಿ ಬೋಲನಾಯಕರವರಿಗೆ ಹಣದ ಅವಶ್ಯಕತೆ ಇದ್ದಾಗ ನಾನು ಅವರಿಗೆ ಸಾಲವನ್ನು ಕೊಟ್ಟಿದ್ದೆ.

2. ನಾನು ಬೋಲನಾಯಕರವರಿಗೆ ಈ ಹಿಂದೆ ಕೊಟ್ಟ ಸಾಲದ ಪರಿಚಯದಿಂದ ಅವರು ನಿಪಿ.1 ರ ದಾಖಲೆಗೆ ಸಾಕ್ಷಿದಾರನಾಗಿ ತಮ್ಮ ಸಹಿಯನ್ನು ಮಾಡಿರುತ್ತಾನೆ ಎಂದರೆ ಸರಿ.

17. Hence, from the above testimony of the plaintiff/Pw.1 it is established that the witness No.1 of the Ex.P-1 pronote namely Mr.Boranayaka S/o Thammanayaka is a known person of the plaintiff from last 10 to 15 years.

18. Pw.2 is a one more witness to the Ex.P-1 pronote. In his cross-examination at para No.1, the Pw.2 has deposed as under:

1. ನಾನು ಮತ್ತು ವಾದಿ ಸಂಬಂಧಿಕರಲ್ಲ ಆದರೆ ಒಂದೇ ಊರಿನವರು. ನಾನು ಮತ್ತು ವಾದಿ ಅನೋನ್ಯವಾಗಿದ್ದೇವೆ ಎಂದರೆ ಸರಿ. ನಾನು ಮತ್ತು ವಾದಿ ಅನೋನ್ಯವಾಗಿರುವುದರಿಂದ ನಿಪಿ.1 ಕ್ಕೆ ಸಾಕ್ಷಿದಾರನಾಗಿ ಸಹಿಯನ್ನು ಮಾಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿದಾರರಾದ ಬೋಲನಾಯಕರವರು ಸಹ ನಿಪಿ.1 ಕ್ಕೆ ಸಹಿ ಮಾಡಿರುತ್ತಾರೆ. ಸದರಿ ಬೋಲನಾಯಕರವರು ವಾದಿಯ ಪರಿಚಯಸ್ಥರು.

19. The Pw.2 being one more witness to the Ex.P-1 pronote, in his cross-examination referred above, even the Pw.2 has also admitted that himself and one more witness namely aforesaid Mr.Boranayaka are the persons having close proximate relationship with the plaintiff. Hence, on combined reading of the

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oral testimony of the Pw.1 and Pw.2, the same proves and establishes that both the witnesses to the Ex.P-1 pronote are the known persons having close proximate relationship with the plaintiff. Except the Pw.2 and Mr.Boranayaka, none of the persons from defendant side have not signed as a witnesses to the Ex.P-1 pronote. Therefore, the very fact that both the witnesses to the Ex.P-1 pronote are the known persons having close proximate relationship with the plaintiff is sufficient to accept the contention of the defendant that the Ex.P-1 pronote is a created document and the same is created by the plaintiff in collusion with the witnesses to the Ex.P-1 pronote.

20. Be that as it may. At para No.4 to 6 of his cross-examination, the plaintiff/Pw.1 has given the following admissions:

4. ನಿಪಿ.1 ರ ಭಾಷಾ ಕಾಗದವನ್ನು ನಾನು ಮತ್ತು ಬೋಲನಾಯಕರವರು ಜೊತೆಯಾಗಿ ಹೋಗಿ ತಂದಿರುತ್ತೇವೆ... ನಿಪಿ.1 ರ ಭಾಷಾ ಕಾಗದದ ಮೌಲ್ಯವನ್ನು ಬೋಲನಾಯಕರು ಪಾವತಿಸಿರುತ್ತಾರೆ.

6. ನಿಪಿ.1 ರ ದಾಖಲೆಯನ್ನು ನಾನೇ ಪತ್ರಬರಹರೊಂದಿಗೆ ಹೇಳಿ ತಯಾರಿಸಿರುತ್ತೇನೆ.

5. ತಾವು ಪ್ರತಿವಾದಿಯಿಂದ ಪಡೆದಿದ್ದ ಸದರಿ 2 ಖಾಲಿ ಕಾಗದಗಳ ಪೈಕಿ ಉಳಿದಿದ್ದ ಇನ್ನೊಂದು ಖಾಲಿ ಕಾಗದವನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಸದರಿ ಬೋಲನಾಯಕರವರು ಈ ದಾವೆಯ ನಿಪಿ.1 ರ ದಾಖಲೆಯನ್ನು ಸೃಷ್ಟಿಸಿ ನನ್ನ ಮೂಲಕ ಈ ದಾವೆಯನ್ನು ಹೂಡಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

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21. In his cross-examination referred above, the plaintiff/Pw.1 has categorically deposed that it is the witness to the Ex.P-1 Pronote namely Mr.Boranayaka who had purchased the stamp paper of Ex.P-1 pronote. So also the plaintiff/Pw.1 has categorically deposed that Ex.P-1 pronote was got prepared by himself as per his instruction. Furthermore and more importantly, in his cross-examination referred above, the plaintiff/Pw.1 has categorically admitted that by misusing the blank signed stamp paper which was obtained as a security by Mr.Boranayaka from the defendant, the witness to the Ex.P-1 Pronote namely Mr.Boranayaka has created the Ex.P-1 pronote and on the basis of the concocted Ex.P-1 pronote said Mr.Boranayaka has filed this suit through him. The aforesaid admission made by the plaintiff itself is sufficient to non-suit the plaintiff. Admittedly, both the witnesses to the Ex.P-1 pronote are the persons having close proximate relationship with the plaintiff. Admittedly, the stamp paper of Ex.P-1 pronote was purchased by Mr.Boranayaka, who is a witness No.1 to the Ex.P-1 pronote. Admittedly, Ex.P-1 pronote was got prepared by the plaintiff himself as per his instruction. Admittedly, by misusing the blank signed stamp paper which was obtained as a security by Mr.Boranayaka from the defendant, the witness to the Ex.P-1 Pronote namely Mr.Boranayaka has created the Ex.P-1 pronote and on the basis of the concocted Ex.P-1 pronote said Mr.Boranayaka has filed this suit through the plaintiff. Thereby, the burden casted on the defendant to prove the

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Issue No.3 is discharged. Accordingly, I conclude that it is proved that by misusing the blank signed stamp papers which was obtained as a security by Mr.Boranayaka from the defendant, the witness to the Ex.P-1 Pronote namely Mr.Boranayaka has created the Ex.P-1 pronote and on the basis of the concocted Ex.P-1 pronote said Mr.Boranayaka has filed this suit through the plaintiff. Accordingly, **I answer Issue No.3 in the Affirmative.**

22. ISSUES NO.1 AND 2: Since the discussion on these two Issues are interconnected, in order to avoid repetition, the above Issues are taken up together for a common discussion.

23. It is the case of the plaintiff that on 02/02/2015 the defendant had borrowed a sum of Rs.75,000/- (Rupees Seventy Five Thousands Only) from the plaintiff as a hand loan and for the repayment of the said loan, the defendant has also executed On Demand Pronote agreeing to repay the loan amount of Rs.75,000/- with the interest at the rate of 2% per annum. It is the grievance of the plaintiff that in spite of his repeated requests, the defendant has failed to repay the loan amount of Rs.75,000/- to him along with interest as agreed by the defendant. Therefore, having no other efficacious remedy the plaintiff has filed this suit as against the defendant for recovery of a sum of Rs.1,28,000/- with future interest from the date of this suit to till the date of its actual payment. Accordingly, Issues No.1 and 2 are framed casting burden on the plaintiff to prove the same.

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24. As held in Issue No.3, it is proved that by misusing the blank signed stamp papers which was obtained as a security by Mr.Boranayaka from the defendant, the witness to the Ex.P-1 Pronote namely Mr.Boranayaka has created the Ex.P-1 pronote and on the basis of the concocted Ex.P-1 pronote said Mr.Boranayaka has filed this suit through the plaintiff. Hence, such being the case, the claim of the plaintiff having lent loan of Rs.75,000/- as well as the claim of the plaintiff about execution of Ex.P-1 pronote by the defendant in his favour cannot be accepted at all and the same needs to be rejected out-rightly.

25. Further, according to the plaintiff, on 02/02/2015, he had lent hand loan of Rs.75,000/- to the defendant. But the defendant has categorically denied the alleged loan transaction in between himself and the plaintiff. The defendant has vehemently contended that there was no sorts of monitory transaction held between himself and the plaintiff at any point of time. Thereby the very monitory transaction alleged to have taken place in between the plaintiff and the defendant for a sum of Rs.75,000/- was seriously denied and disputed by the defendant. It is significant to note here that, according to the plaintiff he has lent a sum of Rs.75,000/- to the defendant on 02/02/2015. I have carefully gone through the pleadings made in the plaint. The plaint does not discloses as to how and in what mode the plaintiff had paid a sum of Rs.75,000/- to the defendant. The plaint is totally silent as to whether the said

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sum of Rs.75,000/- was paid to the defendant in cash or by way of cheque or through account transfer. There is no pleadings in the plaint to the effect that as to how and in what mode the plaintiff has paid said sum of Rs.75,000/- to the defendant. So also there is no pleading in the plaint as to where and in whose presence the plaintiff has paid the loan amount of Rs.75,000/- to the defendant.

26. Further, in this suit the plaintiff is claiming to have lent loan of Rs.75,000/- to the defendant in a single instalment in the year 2015. A sum of Rs.75,000/- is not a small amount in the year 2015. When the plaintiff claims to have lent the loan of Rs.75,000/- to the defendant in a single instalment, the plaintiff must prove that as on 02/02/2015 he had said sum of Rs.75,000/- at his disposal so as to pay the same to the defendant. In this case though the plaintiff has contended that he has lent the loan amount of Rs.75,000/- to the defendant in a single instalment but the plaintiff has not placed any evidence before this court so as to prove that as on 02/02/2015 he had a sum of Rs.75,000/- at his disposal so as to pay the same to the defendant. The plaintiff could have produced his bank account statement or bank pass book so as to show that as on 02/02/2015 he had a sum of Rs.75,000/- at his disposal so as to pay the same to the defendant. But the plaintiff has not even made any endeavour to produce any such evidence before this

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court to prove that as on 02/02/2015 he had a sum of Rs.75,000/- at his disposal and that he has withdrawn the same so as to pay it to the defendant. As held above, there is no pleadings in the plaint as to mode of payment of said amount of Rs.75,000/- to the defendant and so also there is no proof for payment of such huge amount of Rs.75,000/- to the defendant. Accordingly, I conclude that the plaintiff has utterly failed to prove lending of loan of Rs.75,000/- to the defendant.

27. In a decision of the **Hon'ble High Court of Karnataka dated 18/09/2012 in the case of V.Muniyappa Vs. G.M.Somashekara @ Somesha** at para No.19 it is held as under:

It is well settled that the presumption 118 arises only when there is a Negotiable Instrument admitted to have been executed. If the execution is denied or disputed, no presumption arises until execution according to law is proved by the plaintiff.

28. In the aforecited dictum the Hon'ble High court has clearly held that in order to raise a presumption under Section 118 of the N.I Act in favour of the plaintiff, firstly the plaintiff must prove the due execution of the Pronote. It is further held that when the execution of the pronote is denied and disputed, presumption under Section 118 of the N.I Act will not arise until the plaintiff proves the execution as per law. Applying the above ratio to the

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case on hand, this is a suit for recovery of money based on Pronote. Though the plaintiff has claimed that the defendant has executed the Ex.P-1 Pronote, but the defendant has categorically denied and disputed the execution of Ex.P-1 pronote. No doubt the defendant has admitted his signature in the Ex.P-1 pronote, mere admission of signature will not amount to admission of execution of the Ex.P-1 pronote. Rather, the plaintiff ought to have proved that by receiving loan of Rs.75,000/- from him the defendant has executed the Ex.P-1 pronote. But, as held above, the plaintiff has failed to prove the very lending of loan of Rs.75,000/- to the defendant. Hence, when the lending of loan of Rs.75,000/- to the defendant is not proved, the question of the defendant executing the Ex.P-1 pronote does not arise at all. Therefore, when the due execution of the Ex.P-1 pronote is not proved by the plaintiff, the presumption as envisaged U/Sec.118 of N.I Act cannot be raised in favour of the plaintiff.

29. Further, by pointing out at the evidence deposed by the defendant in his cross-examination at para No.2 and 3, learned counsel for the plaintiff has argued that it is not the plaintiff who has colluded with Mr.Boranayaka and rather it is the defendant who is colluded with Mr.Boranayaka. It is a settled law that any stray sentence deposed by the witness cannot be read in isolation and rather the evidence of the witness has to be read in its entirety. Though at para No.2 and 3 of his cross-examination the defendant has deposed few stray sentences but, throughout in his

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cross-examination the defendant has went on denying the suggestion regarding his collusion with Mr.Boranayaka. Throughout in his cross-examination the defendant with stood in his testimony that this is a collusive suit filed by the plaintiff in collusion with said Mr.Boranayaka by misusing his blank signed stamp papers. Hence, the stray sentences deposed by the defendant at para No.2 and 3 of his cross-examination cannot be a ground to decree the suit of the plaintiff. It is a settled law that the plaintiff must succeed in his case on his own strength and the weakness in the defence set up by the defendant cannot be a ground to decree the suit of the plaintiff. Since the plaintiff has failed to prove the lending of loan of Rs.75,000/- to the defendant and since the plaintiff has failed to prove the due execution of Ex.P-1 pronote by the defendant, any weakness in the defence set up by the defendant cannot be a ground to decree the suit.

30. This is a suit for recovery of money based on pronote. No doubt there is a presumption under Section 118 of N.I.Act that the pronote in question is supported by consideration, but in order to avail the benefit of aforesaid provisions, firstly the plaintiff must prove lending of loan to the defendant. But as held in Issue No.3, it is proved that by misusing the blank signed stamp papers which was obtained as a security by Mr.Boranayaka from the defendant, the witness to the Ex.P-1 Pronote namely Mr.Boranayaka has created the Ex.P-1 pronote and on the basis of the concocted Ex.P-1 pronote said Mr.Boranayaka has filed this suit through the

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plaintiff. Hence, such being the case, when it is proved that no consideration is passed on the defendant under the Ex.P-1 pronote and when it is proved that the Ex.P-1 pronote is not supported by consideration, statutory presumption as envisaged under Section 118 of N.I.Act cannot be invoked in favour of the plaintiff. When the plaintiff has failed to prove that the defendant had borrowed the loan from him and thereby the defendant has executed the Ex.P-1 pronote, the question of Ex.P-1 pronote being supported by consideration does not arise at all. Such being the case the plaintiff is not entitled for the benefit of presumption available to him under Section 118 of N.I.Act. Further, when the plaintiff has failed to prove lending of sum of Rs.75,000/- to the defendant and also when the plaintiff has failed to prove the execution of Ex.P-1 Pronote by the defendant, the question of defendant agreeing to repay the alleged loan with interest at the rate of 2% per annum does not arise at all. Accordingly for what has been discussed above, I answer **Issues No.1 and 2 as against the plaintiff in the Negative.**

31. ISSUE NO.4: In view of my above findings on foregoing Issues, I am of the considered view that the plaintiff is not at all entitled for any reliefs as sought for in this suit. By filing this suit the plaintiff has tried to make a case out of no case and thereby, the plaintiff has abused the process of law. Even the defendant was also un-necesserly dragged to the court. Due to the false initiation of this suit, for his no fault the defendant had to spend his money

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and valuable time to fight the litigation. Hence, the defendant has to be compensated at the cost of the plaintiff. Hence, the suit needs to be dismissed by imposing exemplary costs. **Accordingly, Issue No.4 is answered in the Negative.**

32. ISSUE NO.5: In view of my above discussions and findings on Issues No.1 to 4, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby dismissed with costs of Rs.5,000/-.

Pending interim applications if any, the same are disposed off accordingly.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **2nd day of May 2026**).

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC,
KRISHNARAJANAGAR.

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**A N N E X T U R E****List of witnesses examined on behalf of the Plaintiff**

PW.1: Shri.Rajegowda S/o Late.Chotegowda
PW.2: Shri.K.V.Krishnegowda S/o Late.Eregowda

List of documents marked on behalf of the Plaintiff

Ex.P-1: On Demand Pronote dated 02/02/2015 with
consideration receipt.
Ex.P-2: Legal notice dated 11/01/2018.
Ex.P-3: Postal Receipt.

List of witnesses examined on behalf of the Defendant

DW.1: Shri.Shridhara S/o Late.Murthygowda.
DW.2: Shri.Boranayaka S/o Late.Thammayyanayaka.

List of documents marked on behalf of the Defendant

Ex.D-1: Certified copy of order sheet in O.S.No.198/2018.
Ex.D-2: Certified copy of plaint in O.S.No.198/2018.
Ex.D-3: Certified copy of judgment in O.S.No.198/2018.
Ex.D-4: Certified copy of decree in O.S.No.198/2018.
Ex.D-5: Certified copy of order sheet in Ex.No.132/2018.
Ex.D-6: Certified copy of petition in Ex.No.132/2018.
Ex.D-7: Certified copy of memo in Ex.No.132/2018.
Ex.D-8: Certified copy of complaint in CC No.257/2021.
Ex.D-9: Certified copy of Judgment in CC No.257/2021.
Ex.D-10: Certified copy of cross-examination in
CC No.257/2021.

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC,
KRISHNARAJANAGAR.