IN THE COURT OF THE III ADDITIONAL CIVIL JUDGE AND JMFC, KANAKAPURA

Present: Sri. Raviprakash T. Avin
B.B.A, LL.M.

Dated: This the 26th day of March, 2026.

Criminal Case No. 1564/2023

COMPLAINANT: Sri. R. Narayan
S/o Ramegowda,
Aged about 45 years,
R/at: Behind KSRTC Garage,
Navaji Road,Bhuvaneshwari Nagara,
Kanakapura Town & Taluk,
Ramanagara District-562117.

[By Sri. G.K.N, Advocate]

Vs

ACCUSED: Sri. Kumar. K. R.,
S/o Raghavaiah,
Aged about 46 years,
R/at: Kalikamba Motors,
Opposite Reliance Trend,
M.G. Road,
Kanakapura Town &Taluk,
Ramanagara District-562117.

[By Sri. D.R.J, Advocate]

1. Date of Cheque	25.05.2023

2. Date of Return Memo	26.05.2023
3. Date of Notice	20.06.2023
4. Date of service of notice	28.06.2023
5. Date of Accrual	14.07.2023
6. Date of Complaint	05.08.2023
7. Date of recording plea of the Accused.	20.11.2025
8. Date on which judgment was reserved.	18.03.2026
9. Date of judgment.	26.03.2026
10. Date of the sentencing order, if any	26.03.2026

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail on appearance	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
A1	Sri. Kumar. K. R S/o Raghavaiah	Not Arrested	20.11.2025	Under Section 138 NI Act	Convicted for offence under Section 138 NI Act.	Fine of Rs.4,90,000/- in default simple imprisonment for 3 months	Nil

J U D G M E N T

This case emanates from the complaint filed under Section 200 Cr. P. C. for the offence punishable under Section 138 of Negotiable Instrument Act, 1881 against the Accused.

2. The facts in brief of the case of the Complainant are as under:

It is the case of the Complainant that the Complainant and the Accused know each other for 10 years. The Accused approached the Complainant to lend a hand loan of Rs.4,00,000/- for his financial necessity. The Complainant accordingly paid Rs.4,00,000/- to the Accused on 06.10.2020 and the Accused in repayment issued cheque bearing No.000089 dated 25.05.2023 for a sum of Rupees 4,00,000/- drawn on the HDFC Bank, the Kanakapura Branch, in favour of the Complainant.

3. Thereafter the Complainant on 25.05.2023 presented the said cheque to his banker the HDFC Bank, Kanakapura Branch for encashment and the same was returned with an endorsement '**Funds Insufficient**' on 26.05.2023. Thereafter the Complainant got issued legal notice dated 20.06.2023 through his Advocate to the

Accused, which was deemed to be served on the Accused as the same returned not claimed on 28.06.2023. As the Accused neither issued reply nor paid the cheque amount, the Complainant has filed this complaint against the Accused alleging that the Accused has issued the cheque dishonestly and knowing fully well that there were insufficient funds in his account. Thus the Accused has committed the offence punishable under Section 138 of Negotiable Instruments Act and it is prayed to convict the accused.

4. Thereafter the Complainant filed affidavit in lieu of sworn statement and got examined himself as PW.1 and got marked 5 documents as Ex.P1 to 5. Thereafter this court took cognizance of the offence punishable under Section 138 of Negotiable Instruments Act and the case was registered against the Accused for the offence punishable under Section 138 of Negotiable Instruments Act and process was issued against the Accused. The Accused appeared and was released on bail. Thereafter the plea of the Accused was recorded. The Accused pleaded not guilty and claimed to be tried.

5. In view of judgment of Hon'ble Supreme Court in the case of *Indian Bank Association vs Union of India* reported in **AIR 2014 SC 2528** sworn statement of the Complainant and Ex.P1 to Ex.P5 were treated as examination-in-chief of the Complainant.

6. Despite opportunity learned counsel for the Accused did not cross examine PW1 though PW1 was present on 08.01.2026 and 28.01.2026. As the satutory mandated under Negotiable Instruments Act is to conclude trial within 6 months this court on 28.01.2026 took cross of PW1 as nil. The Accused was examined under section 313 of CrPC and incriminating circumstances were read over to the Accused in the language known to him. However the Accused denied the same and submitted he has defence evidence. However he did not lead defence evidence. Hence defence evidence was taken as nil vide order dated 16.02.2026.

7. Heard learned counsel for the Complainant. Learned counsel for the Accused did not address arguments. Hence the arguments of the Accused were taken as not addressed vide order dated 24.01.2026. Thereafter the matter was posted for judgment.

8. Perused the complaint, oral and documentary evidence available on record.

9. On careful consideration of contentions of both the side, the following points arise for consideration of this court:

1. Whether the Complainant proves that the Accused towards discharge of his liability issued cheque for Rs.4,00,000/- bearing No. 000089 drawn on HDFC Bank, Kanakapura Branch in favour of the Complainant and on presentation for encashment the same was dishonored with an endorsement funds insufficient and thereafter on lapse of 15 days from the date of receipt of legal notice demanding cheque amount issued by the Complainant, the Accused has failed to repay the cheque amount and thereby committed an offence punishable under Section 138 of the Negotiable Instruments Act?
2. What order?

10. The above points are answered as under:

Point No.1 : In the Affirmative.

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

: REASONS:

11. Point No.1: Facts of the case as narrated above are not repeated for the sake of brevity.

12. Ex.P1 to 5 shows that the cheque was drawn; on presentation the cheque was dishonoured for want of funds; the notice demanding the cheque amount is deemed to be served on the Accused as it returned unclaimed, he did not repay cheque amount despite lapse of 15 days from the date of receipt of notice. Therefore all ingredients of the Section 138 of the Negotiable Instruments Act are met.

13. From the above it is clear that there is sufficient material to raise presumptions as provided under Sections 118 and 139 of Negotiable Instrument Act. For convenience presumptions relevant to the facts of the case under section 118 and 139 of Negotiable Instruments Act are extracted here under;

> *"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 a negotiable instrument was made before its maturity;*
>
> *Provided that where the instrument has been obtained from its lawful owner, or from an person in lawful custody thereof, by means of an offence of fraud, or has been obtained from the maker or acceptor thereof by means of an offence of fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him".*

14. Further Section 139 of the Negotiable Instruments Act reads as under:

> *"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, for the discharge, in whole or in part, of any debt or other liability."*

15. The Accused chose not to cross examine PW.1. The Accused did not lead defence evidence. The Accused did not explain the incriminating circumstances except bare denial. It shows that the Accused has no defence. Thus in the absence of evidence to the contrary, the presumptions raised in favour of the Complainant remains intact. The Complainant version that the cheque was issued, it was dishonoured and despite notice the

Accused failed to make payment stands proved. In the view of the above there are no reasons to disbelieve the version of the Complainant. Therefore the Accused is guilty of the offence punishable under Section 138 of the Negotiable Instruments Act. Therefore this court answers Point No.1 in the **Affirmative**.

16. **Point No. 2:** As per Sec.138 of Negotiable Instruments Act the Accused may be punished with imprisonment for a term which may extend to two year or with fine, which may extend to twice the amount of cheque or with both. No purpose would be served by sentencing the Accused to serve imprisonment. The cheque was issued in the year 2023 and the case is of the year 2023. There is delay in trial as the Accused did not participate in the proceedings diligently despite several opportunities. Therefore the inflation is to be taken into account while deciding the fine amount. Further if the Complainant had kept the said amount in fixed deposit he would have got income at least at the rate of 6% per annum and the said income for 3 years at the said rate would come to Rs. 4,68,110/- (Principal + Interest). Taking the same into consideration, this court deems it proper to impose the following fine amount on the

Accused and therefore it is just and proper to pass the following;

ORDER

Acting under Section 143 of the Negotiable Instruments Act and Section 255(2) of Cr.P.C. the Accused is hereby convicted for the offence punishable under Section 138 of the Negotiable Instruments Act.

The Accused is hereby sentenced to pay a fine of Rs. 4,90,000/-. In default of the payment of fine amount, the Accused shall undergo simple imprisonment for 3 months.

Acting u/Sec.357(1)(b) the entire fine amount of 4,90,000/- is ordered to be paid as compensation to the Complainant.

Office is directed to give free copy of the judgment to the Accused forthwith.

The intimation is being served to Income Tax Department in light of judgment of Hon'ble Supreme Court of India in Civil Appeal No. 5200 OF 2025 (Arising from SLP (C) No. 13679 of 2022) titled as RBANMS Educational Institution VERSUS B. Gunashekar & Another, reported in **2025 INSC 490**. The relevant para of said judgment is as follows:

> "Therefore, we deem it necessary to issue the following directions:
>
> (A) Whenever, a suit is filed with a claim that Rs.2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any,
>
> (B) Whenever, any such information is received either from the court or otherwise, the Jurisdictional Income Tax authority shall take appropriate steps by following the due process in law,
>
> (C) Whenever, a sum of Rs. 2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority who shall follow the due process in law before taking any action,
>
> (D) Whenever, it comes to the knowledge of any Income Tax Authority that a sum of Rs. 2,00,000/- or above has been paid by way of consideration in any transaction relating to any immovable property from any other source or during the course of search or assessment proceedings, the failure of the registering authority shall be brought to the knowledge of the Chief Secretary of the State/UT for initiating appropriate disciplinary action against such officer who failed to intimate the transactions."

Office is directed to send copy of the judgment along with intimation to the above effect to the Office of Director General of Income Tax (Investigation), Karnataka and Goa

Region along with PAN number of the Complainant.

Office is directed to send the above-said intimation to Director General of Income Tax (Investigation), Karnataka and Goa Region on the email ID bangalore.digit.inv@incometax.gov.in

Complainant shall file copy of PAN card in the office within a week from today.

(Typed and corrected by me and then pronounced the judgment in the open court on ***26th day of March, 2026****)*

RAVIPRAKASH TIPPANNA AVIN

Digitally signed by RAVIPRAKASH TIPPANNA AVIN
Date: 2026.03.27 15:23:30 +0530

(RAVIPRAKASH T. AVIN)
III ADDL. CIVIL JUDGE AND
JMFC,KANAKAPURA.

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES:

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE
PW-1	R.Narayan	Complainant

B. Defence Witnesses, if any;

-NIL-

C. Court Witnesses, if any;

-NIL-

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Got exhibited by Witness	Description
1	Ex.P1	PW-1	Cheque
2	Ex.P1(a)	PW-1	Signature of Accused
3	Ex.P2	PW-1	Endorsement
4	Ex.P3	PW-1	Legal Notice
5	Ex.P4	PW-1	Postal Receipt
6	Ex.P5	PW-1	Postal cover

B. Defence:

-NIL-

C. Court Exhibits:

-NIL-

D. Material Objects

-NIL-

(RAVIPRAKASH T. AVIN)
III ADDL. CIVIL JUDGE AND
JMFC, KANAKAPURA.