

KATK010006502024



**IN THE COURT OF THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TUMAKURU**

Dated this the 24th day of July 2026

Present : **Smt. N.Narasamma**, B.A.L., LLB.,
II Addl. District and Sessions
Judge, Tumakuru.

Cr.R.P.No.21 of 2024

Petitioner: S.Nagaraj
S/o Shankarappa,
Aged 70 years,
R/at Siddagangapalya,
Devarayapatna post,
Tumakuru Taluk,
Tumakuru Dist.

(By Sri.BAR., Advocate).

- versus-

Respondent: B. Nagaraj
S/o Basappa,
A/a 68 years,
R/at Shettihalli Village,
Hassan Taluk,
Hassan District.

(Exparte)

ORDER

The present Revision petition is filed under Section 397 of Cr.P.C. by the petitioner (complainant) challenging the order passed by the Prl. Civil Judge and JMFC., Tumakuru in C.C.No.890/2007 dated 08.01.2020.

2. The parties are referred to as their original rank before the learned trial court for the purpose of convenience. Revision petitioner is the complainant and the respondent is the accused before the learned court.

3. The brief facts of the petition averment is that, the complainant has filed private complaint in PCR No.294/2006 and it was subsequently registered as C.C.No.890/2007 in the trial court and the respondent is the accused in the said case, the petitioner in the trial court has filed the complaint against the accused under section 200 of Cr.P.C. for the offences punishable under section 138 of N.I. ACT. The trial court had recorded the sworn statement of the complainant and heard the argument of the petitioner's counsel and finally

registered the criminal case against the accused and the trial court issued NBW against the accused and directed the complainant to furnish proper address, however the address furnished against the respondent is proper and correct. Even inspite of furnishing the said address and instead of taking proper steps against the respondent, the trial court had dismissed the complaint. The petitioner was regular in attending the court on all the dates of hearing and due to ill-health as he is senior citizen and suffering from old age ailments, on 08.01.2020 when the case was called and since the petitioner as well as counsel by oversight have note down the wrong date,so they could not able to appear and represent the case when it was called on 8.1.2020, the .the trial court dismissed the complaint due to non taking steps against the accused.

4. Assailing the said order, the present petition came to be filed by the petitioner on the grounds that, the impugned order is arbitrary and against the settled

propositions of criminal jurisprudence and the said order is perverse and not in accordance with law.

5. After the admission of the revision petition, the respondent had not appeared before this court and he was placed exparte.-

6. Received the records. Heard arguments of counsel for petitioner.

7. The following points arise for the consideration of this court are :

1. Whether the order passed by the learned Prl. Civil Judge and JMFC., Tumakuru in C.C.No.890/2007 dated 08.01.2020 calls for interference by this court?

2. What order?

8. My findings on the above points are as follows:

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

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

REASONS

9. Point No.1:- It is the case of the petitioner that he had filed private complaint against the respondent under section 200 of Cr.P.C. for the offence under section 138 of N.I. Act. And in that regard the petitioner's sworn statement was also recorded and cognizance was taken and case was registered against the respondent in CC.No.890/2007. Admittedly, the complainant has taken steps for issuing summons to the accused in the said case on every dates of hearing through his counsel only. And the complainant was absent in almost all the dates of hearing.

10. According to the complainant, the complainant has wrongly noted the hearing date and had not appeared before the court through oversight. So the trial court had dismissed the complaint for not taking steps.

11. On perusal of order-sheet of C.C.No.890/2007 on every date of hearing the complainant was absent but

steps was taken against the accused regularly. And for three days i.e., on 27.11.2019, 11.12.2019 and 08.01.2020 the complainant was also absent and steps not taken on those 3 days. And the counsel has filed retirement memo with the copy of notice given to the complainant. So the learned trial court after taking retirement memo from the counsel that though the counsel issued retirement notice to the complainant through RPAD and same was returned with an endorsement addressee not available in the address and sought permission to retire from the case. And accordingly the memo was allowed and complainant counsel was permitted to retire from the case and the complainant failed to furnish sufficient address of the accused to issue NBW against the accused. So, the trial court after mentioning all these facts and dismissed the complaint for non-prosecution.

12. On perusal of complaint filed u/s. 200 of Cr.P.C the complainant was shown as 52 years of age and the complaint was filed during 2007 and the order-sheet of C.C.No.890/2007 clearly speaks that the complainant was

continuously absent before the trial court and every date of hearing exemption petition was filed by the complainant's advocate. It shows that the complainant was not regular in appearing before the court. And the matter was pertaining to the year 2007 and the complainant has also not furnished sufficient address to issue NBW to the accused and the complainant's counsel was also retired from the case after issuing retirement notice to the complainant. All these aspects clearly establishes that the complainant was not interested in prosecuting the case. So, the trial court by considering all these aspects and also by keeping in mind that the case is pertaining to the year 2007 and no purpose will serve in continuing the case in the absence of complainant, and dismissed the complaint.

13. If really the complainant was interested in proceeding further in the case, then he would have furnished the correct address of the accused and he would have appeared before the court even if his counsel is absent. And the order-sheet of trial court further

clears that the counsel was regular in appearing before the court but the complainant was continuously absent. So the trial court has rightly dismissed the complaint. And the revision petitioner though stated that due to wrong noting of the date he could not appear before the court along with counsel. But on that day the counsel was very much present before the court, as per the order-sheet dated 08.01.2020 of C.C.No.890/2007. This shows that the complainant/ present petitioner has made false submission before this court that he and his counsel noted wrong date and could not appear before the trial court on 08.01.2020. Hence, the order of trial court does not require any interference and the petitioner has not made out any ground to allow this petition. Therefore, I answer this point in **Negative**.

14. Point No.2:- For the reasons stated at point No.1, I proceed to pass the following:

ORDER

The Criminal Revision petition filed by the revision petitioner under Section 397 of Cr.P.C. is hereby dismissed.

The order passed by the Prl. Civil Judge & JMFC.,Tumakuru dated 08.01.2020 in C.C.No.890/2007 is hereby confirmed.

Re-transmit the trial court record along with copy of order to the trial court forthwith.

(Directly computerized by me (presiding officer) corrected and then pronounced by me in the open court on this the 24th day of July 2026).

(N.Narasamma)

II Addl., District and Sessions Judge
Tumakuru.