IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC TIPTUR.

Dated this the **14th** day of **JULY-2026**

PRESENT:
Sri. VARADARAJ.B.,B.Sc, L.L.B., M.L.,
Senior Civil Judge & JMFC
TIPTUR.

C.C.No.202/2018

Complainant: M.Nagaraju S/o Late Mariyappa,
Copra Merchant,
Aged about 55 years
R/at.Shankarappa Garden,
Tiptur Town.

(By Sri.TSR., Advocate)

V/s

Accused:

1. Sree Mukkanneswari Coconut Industries,
By its Proprietor, Sharanappa R.C.,
Aged about 50 years,
R/o.Byranakanahalli, Kasaba Hobli,
Tiptur Taluk.

2. Sharanappa.R.C.,
Aged about 50 years,
Proprietor, Sree Mukkanneswari Coconut
Industries, Byranakanahalli, Kasaba Hobli,

Tiptur Taluk.

Another address: Sharanappa.R.C C/o Sudha, Nurse,
Government Hospital Quarters,
Tiptur Town.

(By Sri.TKR.,Advocate)

Date of occurrence of offence	:	04.09.2017
Date of report of offence	:	04.09.2017
Name of the complainant	:	M.Nagaraju
Date of commencement of recording evidence	:	26.06.2023
Date of closing of recording of evidence	:	26.06.2023
Nature of the offence	:	Punishable U/Sec. 138 of NI Act
Opinion of the Judge	:	Accused found guilty.

JUDGMENT

This is a complaint filed by the complainant under section 200 of Cr.PC alleging offense under section 138 of NI Act against the accused.

2. The facts of the allegations in a nutshell are follows:

It is the case of the complainant that the accused being the proprietor of the accused no 1 firm borrowed a hand loan of ₹2,00,000/- from him on 19.07.2017 for his legal necessities. In discharge of the said liability, the accused issued a post-dated cheque which belongs to acccused no 1 firm bearing No.481722 dated 31.08.2017 for a sum of ₹2,00,000/-, drawn on State Bank of Mysore, Tiptur, on the very same day which was duly signed by its proprietor I.e accused no 2. Accordingly, when the complainant presented the said cheque for encashment, it came to be dishonoured with the endorsement **"Funds Insufficient."** Upon receipt of the bank endorsement, the complainant caused a legal notice dated 08.09.2017 to be issued through his counsel by RPAD as well as ordinary post, which were duly served upon the accused. Despite service of the notice, the accused failed to comply with the demand and did not make payment of the cheque amount. It is the specific allegation of the complainant that the cheque was issued by the accused with a dishonest intention and that, by such conduct, the accused has committed an offence punishable under Section 138 of the Negotiable Instruments Act. Hence, the complainant has sought appropriate action against the accused in accordance with law.

3. Thereafter, the complainant filed his affidavit in lieu of sworn statement. Upon presentation of the complaint and after considering the materials placed on record, this Court took cognizance of the offence punishable under Section 138 of the Negotiable Instruments Act and registered the case as a criminal case. Thereafter, summons was issued to the accused under Section 204 of the Code of Criminal Procedure. Pursuant to service of summons, the accused appeared before the Court through his counsel and was enlarged on bail. Subsequently, the substance of accusation was framed, read over, and explained to the accused. The accused pleaded not guilty and claimed to be tried. Accordingly, the matter was posted for trial.

4. In order to substantiate his case, the complainant stepped into the witness box and was examined as PW-1. He produced and got marked five documents as Ex.P1 to Ex.P5. On the other hand, the accused also entered the witness box and was examined as DW-1. He produced and got marked eight documents as Ex.D1 to Ex.D8.

5. Heard, perused the records.

6. The points that arise for my consideration are:

1. Whether the complainant proves that the accused has borrowed a loan of Rs.2,00,000/- from him on 19.07.2017 and in discharge of that liability he issued a cheque bearing No.481722 dated 31.08.2017 drawn on SBM, Tiptur branch, which came to be dishonored on its presentation and in spite of receipt of the

notice with in statutory period, the accused has not repaid the loan, thereby the accused has committed the offense punishable under sec 138 of NI act?

2.What order?

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

Point No.1 : In the Affirmative

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

REASONS

8.Points No.1 : To substantiate his case, the complainant stepped into the witness box, filed his affidavit in lieu of examination-in-chief, and produced five documents marked as Ex.P1 to Ex.P5. Ex.P1 is the cheque in question, Ex.P1(a) is the signature of the accused, Ex.P2 is the bank endorsement, Ex.P3 is the copy of the legal notice, and Ex.P4 and Ex.P5 are the postal receipt and the postal enquiry particulars, respectively. PW-1 was thoroughly cross-examined by the learned counsel for the accused.

9. During the course of cross-examination, at the first instance, a bald attempt was made on behalf of the accused to contend that the legal notice was never served upon him. However, Ex.P5, being the endorsement issued by the Deputy Postmaster, clearly discloses that the legal notice was duly served upon the accused on 12.09.2017. The accused has made no attempt whatsoever to disprove the said document. In fact, it is not even the case of the accused that he was not residing at the address mentioned in the postal receipt (Ex.P4) and the legal notice (Ex.P3). It is a cardinal principle of law, as embodied under Section 27 of the General Clauses Act, that where a notice is properly addressed, prepaid, and posted, service thereof is presumed. The said presumption squarely applies to the facts of the present case.

10. The second defence raised by the accused is that Ex.P3 is dated 08.09.2017, whereas it was posted only on

09.09.2017. This contention is wholly untenable, as there is no legal requirement that a notice must necessarily be dispatched on the very date on which it is issued. The only requirement under Section 138(b) of the Negotiable Instruments Act is that the notice should be issued within the statutory period prescribed thereunder.

11. It is further contended by the accused that, by the time the cheque was presented for encashment, the State Bank of Mysore had already merged with the State Bank of India and, therefore, the cheque had become invalid. This contention also does not merit acceptance. Ex.P2, being the bank endorsement, clearly shows that the cheque was dishonoured for the reason **"Funds Insufficient"** and not on account of the merger of the bank or for any other technical reason. The complainant has specifically averred that the accused had issued a post-dated cheque. Mere merger of one bank with another would not render a cheque invalid. In fact,

according to the complainant, the cheque was issued on 19.07.2017. During the course of his cross-examination, the accused himself admitted that the State Bank of Mysore had merged with the State Bank of India with effect from 01.04.2017. If that be so, it is quite probable that the banks had not immediately withdrawn or recalled all the cheque leaves already issued to their customers.

12. Another defence taken by the accused is that the cheque in question had been issued to one Annayappa, who was a common friend of both the complainant and the accused, and that the complainant has misused the said cheque and instituted the present complaint. This contention is equally devoid of merit. The accused has neither taken this defence at the earliest opportunity by issuing a reply to the statutory notice nor initiated any legal proceedings against either the complainant or the said Annayappa. The absence of any such action renders this defence wholly unconvincing.

13. So far as Ex.P1(a), namely the signature of the accused, is concerned, the accused has not disputed the same. It is also not in dispute that Ex.P1 belongs to the accused. Ex.P5 clearly establishes that the statutory notice was duly served upon him. If the accused had any genuine defence, he could have availed himself of the earliest opportunity by issuing a suitable reply notice setting out the true facts. Admittedly, he has failed to do so. The cumulative effect of the above discussion is that the statutory presumption under Section 139 of the Negotiable Instruments Act operates in favour of the complainant, namely, that the cheque was issued by the accused in discharge of a legally enforceable debt or liability and that he had received a sum of ₹2,00,000/- from the complainant.

14. The accused also entered the witness box and produced eight documents marked as Ex.D1 to Ex.D8. It is his specific case that he is financially sound; that his wife is

a Government servant; that she was earning ₹60,000/- to ₹70,000/- per month; that his son is a software engineer; and that he owns immovable properties worth about ₹2 to ₹3 crores. On that basis, he contends that he had no necessity to borrow any amount from the complainant. He has produced Ex.D1, being the cheque book, and has stated that, except for the cheque in question, all the remaining cheque leaves are intact. He has also produced RTC extracts and his bank statement.

15. However, in view of the statutory presumption available under Section 139 of the Negotiable Instruments Act, none of these circumstances is sufficient to rebut the presumption operating in favour of the complainant. Both the learned counsel for the complainant and the accused have filed their written arguments. The learned counsel for the complainant has also relied upon various decisions of the superior courts. I have carefully gone through the said

decisions, and the principles laid down therein have been kept in view while appreciating the evidence and recording the foregoing discussion.

16. The accused has failed to substantiate his contention that the complainant lacked the financial capacity to advance a sum of ₹2,00,000/-. The bald suggestion made during the cross-examination of PW-1 has not been supported by any cogent evidence. Under these circumstances, **I have no hesitation in answering Point No.1 in the Affirmative.**

17. Point No.2: Section The provisions of Section 138 and the allied provisions of the Negotiable Instruments Act were enacted with the object of enhancing the credibility and acceptability of commercial transactions effected through cheques. The legislative intent is not merely to punish the drawer of the dishonoured cheque but also to ensure that the complainant is adequately compensated for the loss occasioned by such dishonour.

18. In the present case, Ex.P1 cheque pertains to the year 2017. The complainant has been deprived of the amount lawfully due to him for nearly nine years. In these circumstances, the complainant is entitled to reasonable compensation. Accordingly, over and above the cheque amount, he deserves to be compensated by way of an appropriate additional amount so as to reasonably offset the prolonged deprivation of his money. In view of the foregoing findings and discussion, I proceed to pass the following:

ORDER

The Accused I.e the proprietor of the accused no 1 firm is found guilty of the offense punishable under section 138 of NI act.

Acting under section 255(2) of CR.PC the accused is hereby convicted for the offense punishable under section 138 of NI Act. He is sentenced to pay a fine of Rs.3,00,000/- (Rs. Three lakhs only). In default to pay the fine the accused shall undergo SI for a period of 6 months.

Further, acting under sec 357(1)(b) of Crpc, a sum of Rs.2,95,000/- shall be paid to the complainant as compensation and Rs.5,000/- shall be remitted to the state.

Bail bond and surety bond of the accused stand canceled.

Supply free copy of this judgment to the accused forth with.

(Dictated to the stenographer online, transcribed by him, corrected and then pronounced by me in the open court on this the 14th day of July-2026)

Sd/-
(Varadaraj .B)
Senior Civil Judge & JMFC.,
Tiptur.

ANNEXURE

1.List of witnesses examined on behalf of prosecution:

PW.1 : M.Nagaraju

2.List of witnesses examined on behalf of accused :

D.W.1 : Sharanappa

3.List of documents exhibited on behalf of prosecution:

Ex.P1 : Cheque

Ex.P1(a) : Signature of Accused

Ex.P2 : Endorsement of bank

Ex.P3 : Copy of notice

Ex.P.4 : Postal receipt

Ex.P.5 : Postal enguiry particular

4. List of documents exhibited on behalf of accused:

Ex.D1 : Cheque book

Ex.D2 : Aadhaar card

Ex.D3 to 7: RTC's

Ex.D8 : Bank Statement

5. Materials marked for the prosecution:

- NIL -

Sd/-
Senior Civil Judge & JMFC.,
Tiptur.