

KAUK410003552019



Presented on : 11-04-2019  
Registered on : 11-04-2019  
Decided on : 05-05-2026  
Duration : 07 years, 00 months, 24 days

**IN THE COURT OF**  
**CIVIL JUDGE AND JMFC COURT, DANDELI**  
**AT: DANDELI, UTTARA KANNADA**

**Presided Over by TEJASHWINI SOGALAD** B.COM. LL.M  
**Civil Judge and JMFC.,**  
**Dandeli.**

**Dated This The 05<sup>th</sup> Day of May, 2026**

**C.C. No. 121/2019**

**Complainant: Sri. Kiran Raju Bhajantri,**  
Aged about: 27 years,  
Occ: Painting Work,  
R/o. T.R.T. Cross, Subhash Nagar,  
Dandeli, Tq: Dandeli, Dist: Uttara Kannada.  
**(By Smt. R.M.K. Advocate)**

**-Vs-**

**Accused: Sri. Sampath Kumar Samuel,**  
Aged about: Major, Occ: Business,  
R/o: Near Ishwar Mandir, Old Dandeli,  
Tq: Dandeli, District: Uttara Kannada.  
**(By Sri. R.I.H. Advocate)**

**-◆-**

1. Date of Complaint : 28-03-2019
2. Date of dishonour of cheque : 26-02-2019
3. Date of Service of notice : 05-03-2019
4. Date of Institution of the case : 11-04-2019
5. Offence alleged of : U/S.138 of N.I. Act
6. Date of arrest of accused : No.
7. Date of release of accused : 07-01-2020 on bail
8. No. of days in JC : NA
9. Date of commencement of trial : 10-03-2021
10. Date of Judgment : 05-05-2026
11. Opinion of the Judge : Found guilty

=♠=

### **JUDGMENT**

This case arises out of the private complaint filed U/Sec.200 of Cr.P.C. for the offence punishable U/Sec.138 of Negotiable Instruments Act, 1881 (hereinafter referred as **N.I. Act** for brevity) against the accused.

#### **2. The case of the complainant in brief is as under:**

- a) It is the case of the complainant that himself and the accused know each other since 3 years. In the month

of March 2018 accused for his financial and family difficulties, approached the complainant seeking a hand loan of Rs.1,50,000/- on returnable basis. As per the request made by the accused, the complainant had arranged Rs.1,50,000/- and given to accused in March 2018 by way of cash in complainant house, Dandeli. After that accused agreed, assured and undertaken to return the above said hand loan amount of Rs.1,50,000/- to complainant in the month of September 2018.

- b)** After completion of the above said period, complainant had requested accused several times to repay the above said hand loan amount. But accused have one or the other way dragging and protracting the same. Ultimately accused have issued one cheque on the same day and instructed the complainant to present the above said cheque amount. But accused has failed to do so and went on giving lame excuses to the complainant.
- c)** After that accused has issued a cheque bearing account No.34645824014, cheque bearing No.293727

for ₹1,50,000/- dated 26-02-2019 drawn on State Bank of India, Lenin Road, Dandeli, Dandeli Branch towards repayment of money received from the complainant and told the complainant to present the cheque for payment.

- d)** Accordingly, complainant has presented the above said cheque for realization at State Bank of India, Dandeli Branch on 26.02.2019. The said cheque was returned with an endorsement for the reasons “Fund Insufficient”. This fact was brought to the notice of accused, but the accused has not paid the amount of the cheque.
- e)** After return of the said cheque from the society, the complainant got issued a legal notice to the accused on 05.03.2019 by way of registered post, calling upon the accused to make payment of ₹1,50,000/- which is covered under the said cheque to the complainant society within fifteen days from the receipt of the said notice. The accused has received the said notice on 06.03.2019 and not given any reply to the said notice. However, accused has failed to pay the amount even

after knowing the contents of legal notice of the complaint. The accused knowingly with dishonest intention did not repay the loan and also did not tender any reply to the said notice. Hence, the accused has committed an offence punishable U/Sec 138 of N.I. Act. As such the complainant got cause of action to file the complaint.

3. Therefore, complainant filed the present private complaint against accused U/s.200 of Cr.P.C for the offence punishable U/s.138 N.I. Act. Hence, a case got registered against accused in PCR No.43/2019 by the Complainant. After recording the sworn statement of the complainant, cognizance of offence punishable U/Sec.138 of N.I Act is taken against the accused and summons were issued to the accused.
4. However, only on .07.01.2020, the accused appeared before this Court and he was enlarged on bail. Later only on 19.02.2020 the substance of accusation was framed, read over and explained to the accused in the language known to him and his plea was recorded on 19.02.2020 . The accused pleaded 'not guilty' and claims to be tried.

However, accused failed to cross examine P.W.1 by utilising accorded opportunities. Hence, cross examination of P.W.1 is taken as Nil. Then statement of accused as per sec.313 of Cr.P.C is recorded and he denied all incriminating evidence appearing against him in evidence of complainant and submitted he has defence evidence from his side. Hence, case got posted for defence evidence. But accused failed to utilise all such accorded opportunities. Therefore, defence evidence is taken as Nil vide order date 08.01.2026.

5. Heard arguments of counsel for complainant and accused. Perused the entire materials on record.
6. At this point, the following points arise for my consideration:

**Point No.1:** *Whether the complainant proves beyond all reasonable doubt that, the accused had issued cheque for ₹1,50,000/- dated 26.02.2019 bearing cheque No.293727 drawn on State Bank of India, Lenin Road, Dandeli branch of accused towards the repayment of loan amount borrowed by accused from complainant, which when presented for encashment by the complainant, on 26.02.2019*

*it came to be dishonored with an endorsement "Funds insufficient" and despite of issuance of legal notice, the accused failed to pay amount covered under cheque and thereby the accused has committed the offence punishable under Section 138 of Negotiable Instruments Act?*

**Point No.2:** What Order or Sentence?

7. My findings to the above mentioned points are as under:

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

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

### **REASONS**

8. **Point No. 1:** In order to prove his case, the complainant got himself examined as P.W.1 and reiterated the contents of complaint in his sworn affidavit filed in lieu of his examination in chief and got marked as many as 5 documents as Ex.P-1 to Ex.P-5. **Ex.P-1** is the Original Cheque bearing No.384482 for ₹1,50,000/- dated 26.02.2019 drawn on State Bank of India, Lenin Road, Dandeli Branch wherein payee name stands in the name of complainant. **Ex.P-2** is the Cheque return memo dated 26.02.2019 in which reason of return is mentioned as

'Funds insufficient'. **Ex.P-3** is the Legal Notice dated 02.03.2019. **Ex.P-4** is the Post office report. **Ex.P-5** is the Reply Notice. On perusal of documentary evidence, it is forthcoming that the documentary evidence produced by complainant is not corroborating with the pleadings of the complainant. The complaint is depicting about the cheque no. 293727 but where as the cheque produced by complainant which is marked at Ex.P1 is Cheque bearing No.384482. The documentary evidence is showing Cheque bearing No.384482 but where as complaint is filed with respect to cheque No. 293727. Therefore, without much discussion I would like to opine that the complainant has utterly failed to prove his case with cogent and corroborative evidence. Therefore, I answer **Point No.1 in the Negative.**

**9. Point No.2:** In view of above reasons, I proceed to pass the following:

**ORDER**

**Acting U/Sec. 255(1) of Cr.P.C. accused is acquitted of the offence punishable under Section 138 & 142 of N.I.Act.**

**The Bail bond and surety bond of the  
accused shall stand cancelled.**

*(Dictated to Stenographer directly on computer, printout taken by her, and then corrected and pronounced by me in open Court on this 05<sup>th</sup> day of May, 2026)*

<><><>

**ANNEXURE**

**List of witnesses examined on behalf of Complainant:**

P.W.1 : Sri. Kiran Raju Bhajantri

**List of documents marked on behalf of Complainant:**

Ex.P-1 : Original Cheque.

Ex.P-2 : Cheque return memo

Ex.P-3 : Legal Notice

Ex.P-4 : Postal Acknowledgment

Ex.P-5 : Reply Notice

**List of witnesses examined on behalf of accused:**

--Nil--

**List of documents marked on behalf of accused:**

--Nil--

