

KAUK720002292023



**In the Court of the Senior Civil Judge & Principal JMFC,
Kumta, At: Kumta, Uttara Kannada**

Dated this the 30th day of September, 2025.

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

C.C.No.34/2023

Complainant: Sri. Nagaraj Pandurang Naik
Aged about 37 years,
Occ: Private job
R/o: Parijat Nilaya, 3rd cross,
Upparkeri, Kumta,
Kumta Taluk.

(By Sri. N.M.N., advocate)

V/s

Accused: Surekha Babu Gunagi
Aged about 52 years,
Occ: Court employee,
R/o: JMFC. Court,
Honnavar Taluk

(By Sri. S.U.A. advocate)

**Orders on application filed under Section 91 of Cr.P.C. by
the complainant dated 23-09-2025**

The complainant has filed this application Under Section 91 of Criminal Procedure Code to call for record from Civil Judge and J.M.F.C. Court Kumta in C.C. No. 163/2014.

2. In the application complainant has stated that already the evidence of complainant accused are completed. But in the present case the accused denied her signature in cheque. Hence the complainant has called for the specimen signature of the accused from the State Bank of India, Kumta branch, in which the witness called from state bank of India, Kumta Branch in his evidence he deposed that the signature of accused and the signature in the alleged cheque not tallied. Already this accused has been convicted on 10-02-2017 in C.C. No. 163/2014. hence to prove the signature of the accused it is necessary to call for record in C.C.No.163/2014. If the application is not allowed and if the document is not called for hence, the hardship will be cause to the complainant and he cannot able to prove his case. Hence, prays to allow the application.

3. The said application is opposed by learned counsel for accused by filing written objections contending that the application filed by the complainant is not maintainable either in law or facts same is liable to be dismissed, without even go for further hearing of the matter. The application submitted only to harass the accused person, and to keep the merit less case to be living for long time.

4. That, earlier complainant has filed the application U/s.91 of Cr.P.C. and now says not pressed, so the same cause to be dismissed. Now another application with same relief with different form is not maintainable.

5. That, the complainant pleaded that one C.C. was convicted and call for records, the reasons assigned has no logic, and legal research made on it. That the complainant says accused has convicted in the earlier one that case has no bearing with the present complaint, and the Revision Petition No.6/2017 is pending before the Hon'ble District and Sessions court, Karwar. The calling of documents in Crl. R.P.No.6/2017 before its judgment is no way warranted in the present case.

6. That complainant has to prove his case by cogent evidence and to show his financial capacity of heaving such amount in his hand on that day.

7. That complainant has at the earliest possibility taken her defence in the reply notice also having complained to the police of Kumta. That, the so called application is nothing but waste of time of the court, hence same may be dismissed with heavy cost.

8. Heard both respective counsels for complainant and accused.

9. Upon hearing arguments and on perusal of materials placed on records, following points arises for consideration.

1. Whether the complainant has made out grounds for allowing the application?

2. What order?

10. 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

11. **Point No.1**: Admittedly the present complaint filed by the complainant against the accused for the offence punishable under section 138 of N.I.Act. Now both the parties have lead their evidence and now the case is posted for arguments, at this stage the complainant filed present application to call for record in C C No.163/2014 it is the contention of complainant that the accused disputing her signature in the cheque. Earlier also the same accused has been convicted in C.C.No.163/2014. Hence, to prove the signature of the accused the documents in C.C.No.163/2014 are necessary, hence prays to allow the application.

12. Learned counsel for accused submits that the Revision Petition No.6/2017 is pending before the Hon'ble District and Sessions court, Karwar. The calling of documents in Crl. R.P.No.6/2017 before its judgment is no way warranted in the present case. Hence it shows that the accused preferred appeal in Crl. R.P.No.6/2017 and the Revision Petition No.6/2017 is pending before the Hon'ble District and Sessions court, Karwar, but both parties have not produce any

document with respect to the same. If the document is called no hardship caused to the accused, if the application is not allowed complainant cannot prove his case. Hence the complainant made out grounds to allow the application. Accordingly, **point No.1 answered in the Affirmative.**

13. **Point No.2:** In view of my findings on point No.1, this court proceed to pass the following:

ORDER

Application filed by the complainant under Section 91 of Cr.P.C. is hereby allowed.

Office to call for record in
C.C.No.163/2014 if P.F. paid.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 30th day of September, 2025)

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.

(Order is pronounced in the open
Court, vide separate order:)

ORDER

Application filed by the
complainant under Section 91 of
Cr.P.C. is hereby allowed.

Office to call for record in
C.C.No.163/2014 if P.F. paid.

Senior Civil Judge
& Prl. JMFC., Kumta.