

KAUK720002292023



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

Dated this the 3rd day of January, 2026.

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 24-11-2025**

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. 411/2015.

2. In the application complainant has stated that already the evidence of complainant and 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. The accused appeared before Civil Judge and J.M.F.C Court, Kumta in C.C.No.411/2015. Hence to prove the signature of the accused it is necessary to call for record in C.C.No.411/2015. 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. 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. And the criminal case which the complainant intends to call for the record that is C.C.No.411/2015 was already disposed off and the appeal is pending before the Hon'ble District and Sessions Judge Court. The present case is different from that case, the complainant has no right or privilege to interfere into the matter, this application is filed only to harass the accused. Complainant without producing

the require documents filed this false application. That, the so called application is nothing but waste of time of the court, hence same may be dismissed with heavy cost.

4. Heard both respective counsels for complainant and accused.

5. 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?

6. 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

7. **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.411/2015 it is the contention of complainant that to prove the signature of the accused the documents in C.C.No.411/2015 are necessary, hence prays to allow the application.

8. Learned counsel for accused submits 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. And the criminal case which the complainant intends to call for the record that is C.C.No.411/2015 was already disposed off and the appeal is pending before the Hon'ble District and Sessions Judge Court. The present case is different from that case, the complainant has no right or privilege to interfere into the matter.

9. Though the learned counsel for accused submits that C.C.No.411/2015 was already disposed off and the appeal is

pending before the Hon'ble District and Sessions Judge Court. But has not produce any document with respect to the same.

10. The Learned counsel for accused relied on citation reported in : (1) **2024 ACD 481: Hon'ble High Court of Madhya Pradesh:** in the case of **Mahesh Prasad Malviya Vs. Maa Veshno R.C.C. Hayunm Pipe Industries (Madhya Pradesh)**, wherein it has held that,

Negotiable Instruments Act (26 of 1881), Section 138; Criminal Procedure Code (2 of 1974), Section 91 - Criminal Procedure - Summoning of Bank Records - Complaint of dishonor of cheque - Date Discrepancy, Defense Opportunity - High Court upheld the decision of the lower court to dismiss an application under Section 91 of the Cr.P.C. seeking summoning of bank records.

4. The application was opposed by the respondents and the trial Court by the impugned order has rejected the application on the ground that the cross-examination of the complainant is going on and the applicant would get full opportunity to lead his evidence in defence.

(2) **2025 (1) DCR 349: Hon'ble High Court of Gujrat:**
in the case of **Jayeshbhai Rohitbhai Vaghela Vs. State of Gujarat and another**, wherein it has held that,

Negotiable Instruments Act, 1881 Section 138 - Criminal Procedure Code, 1973 - Section 91 - Criminal Procedure Production of documents - Complaint of dishonour of cheque Principles governing the right of accused to seek documents during trial The High Court dismissed petitions challenging the rejection of an application under Section 91 of the CrPC for production of documents in a case under Section 138 of the NI Act. The Court observed that the power to summon and produce documents is discretionary and must be exercised when the documents are necessary or desirable for a just trial. The Court found that the accused's application appeared to be a delay tactic, especially since the documents sought were not relevant at that stage and the defense had not established their necessity. Relying on Supreme Court and High Court precedents, the Court emphasized that the accused has no automatic right to demand production of documents and that such applications should not be filed to frustrate the trial process. The Court affirmed that the trial Court's reasons for rejection were valid and dismissed the petitions, concluding that the applications were vexatious and intended to delay proceedings.

5.1 *Learned advocate Mr.Bharda for learned advocate Mr.Mehta for the petitioner has submitted that the loan agreement specifying the rate of interest is not produced in all the*

complaints. In the cross-examination, the witness of the complainant bank has admitted that the rate of interest is decided by the board of directors before passing a resolution, however, the complainant bank has not produced on record the resolution specifying the rate of interest and therefore, the application was filed for production of documents. He submitted that it is the defence of the petitioner that more rate of interest is being charged by the bank beyond the guidelines of Reserve Bank of India and if the bank is directed to produce on record the resolution which is in the exclusive custody of the bank, then there would be no prejudice to the bank. He, therefore, submitted that these petitions are required to be allowed and the application filed under Section 91 of the Code is required to be allowed.

(3) 2025 (1) DCR 458: Hon'ble High Court of Gujrat:
in the case of **Rajeshbhai Gafurbhai Vaghela (Vaghari) Vs. State of Gujarat and another**, wherein it has held that,

Negotiable Instruments Act, 1881 Section 138 - Criminal Procedure Code, 1973 - Section 91 Criminal Procedure Production of document Complaint of dishonour of cheque The petitions challenge the order rejecting the accused's application under Section 91 of Cr.P.C. for production of documents in a case under Section 138 of the NI Act. The court reaffirmed that Section 91 confers discretionary powers on courts to summon relevant and necessary documents, but such power must be exercised judiciously, considering relevance and stage of proceedings.

The court emphasized that the application for production of documents should not be used as a delay tactic, especially in cases under Section 138 NI Act, which require expeditious disposal. After examining the reasons for rejection by the trial court and the legal principles, the court held that the application was vexatious and filed at a late stage to cause delay. Therefore, the petitions were dismissed, confirming the court's discretion not to summon documents unless deemed necessary and relevant for a just trial.

11. I am not disputed dictum of Hon'ble High Courts. But in this case complainant intends to prove signature of accused. Hence 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.**

12. **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 on cost of Rs.500/- payable to accused.

Office to call for record from Civil Judge and J.M.F.C. Court, Kumta, in C.C.No.411/2015 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 3rd day of January, 2026)

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