

KAUK720002292023



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

**Dated this the 5<sup>th</sup> day of September, 2024.**

**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, 3<sup>rd</sup> 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 U/sec 91 of Cr.P.C.**

Accused has filed this application Under Section 91 of Criminal Procedure Code, 1973, with a prayer to permit the accused to produce and mark the document in her evidence.

2. In the application accused stated that accused not committed any offence, however, complainant has filed false complaint against the accused, already accused adduced her evidence. She has produced documents as she filed complaint In the year 2011 itself, the accused filed police complaint stating that she lost cheque and she also produced the document. Further the accused has given reply notice to the complainant on 10.12.2018, though complainant mentioned in his complaint, but has not produced the reply notice before this court intentionally, hence the accused intends to produce the said reply notice, If the said application is allowed and if accused permitted and got marked the document no loss or hardship will cause to the complainant, if the application is not allowed hardship caused to the accused, Hence, prays to allow the application.

3. Learned counsel for complainant orally objected to the application.

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 accused 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**: Present complaint filed by the complainant against the accused for the offence punishable under section 138 of N.I.Act. Now the case is posted for defence evidence, at this stage the accused filed present application to permit the accused to produce and mark the document.

8. It is the contention of accused that, the accused not issued any cheque in favour of complainant, her cheque was stolen, and she lodged the complaint with respect to the same, but the complainant filed false case against her. The accused given reply to the notice issued by complainant, but the

complainant intentionally not produced the said reply notice before the court, hence it is necessary to produce the said reply notice before this court, hence prays to allow the application.

9. Leaned counsel for complainant orally objected to the application, the accused intends to produce the copy of reply notice, which is necessary to prove her defense, hence if the accused permitted to produce and get marked the document in her evidence no hardship caused to the complainant, as the said document is connected to the present case, and the complainant got every liberty to cross examined the accused on the said document. Hence the accused made out grounds to allow the application. Accordingly, point No.1 answered in the Affirmative.

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

**ORDER**

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

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 5<sup>th</sup> day of September, 2024)

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