

KAUK720004752023



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

Dated this the 3rd day of August, 2024.

PRESENT

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

C.C.No.153/2023

Complainant: Vyavasaya Seva Sahakari Sangh
Niyamit, Kumta,
Represented by Branch Manager
Sri. Nagendra Krishna Patgar
Aged about 48 years,
R/o. Kumta, Kumta Taluk.
(By Sri. P.G.H., advocate)

V/s

Accused: Manjunath Jatti Patgar
Major, Occ: Business,
R/o Winfinith Swadeshi Bhandar
Building No.359, In front of Bank of Baroda
Bajar road, Honavar 581 334.

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

Orders on application filed under Section 91 of Cr.P.C. by the accused

Accused has filed this application Under Section 91 of Criminal Procedure Code, 1973, with a prayer to direct the complainant society to furnish the certified copies of documents with respect to S.B. A/c No.182 from 01.05.2020 to 31.05.2020 of K.D.C.C. Bank, Kumta. In the said application it is stated that as per the order of the court the complainant produced some documents before the court. But at the time of filing of application in his application by oversight the year instead of 01.05.2020 to 31.05.2020 it is wrongly typed as 01.05.2022 to 31.05.2022, hence the said document that is statement of S.B.A/c No.182 from 01.05.2020 to 31.05.2020 are very much necessary to prove his defense. The said documents reveals that the said bank sanctioned the loan amount to the complainant society and thereafter the said loan amount was transferred to the account of accused and thereafter, taken cheque from the accused account and transferred to the complainant society S.B.A/c.No.182, the entire said transactions was made in the year of 2020, May. However, complainant has filed false complaint against the accused to harass him. So, in order to prove his defence, the said documents are very necessary. Hence accused prays for allowing the application.

2. This application opposed by complainant by filing written objections, contending that, the application filed by the

complainant is not maintainable under law and facts. In order to harass the complainant society accused has filed false application. At this stage, the said application is not maintainable under law.

3. Further contended that, the accused stood as guarantor to Manjunath Hanmant Naik who had availed loan from the complainant society, the accused issued cheque to clear the loan amount, but the said cheque was bounce, hence, this complaint was filed by the complainant. The documents which are shown in this application are not necessary documents, the accused stood as surety to the loan and hence liable to clear the loan, and the said documents are only pertaining to complainant society and not pertaining to the borrower or accused, hence, the said documents are not necessary to prove the case. Hence prays to reject 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:** Admittedly the earlier application dated 05.01.2024 filed by the accused to direct the complainant to produce the document, was allowed by this court by order dated 08.04.2024 and as per the order of this court, the complainant bank produced the documents.

8. But it is the contention of accused that, in his application instead of seeking account statement with respect to SB Account no.182 from 01.05.2020 to 31.05.2020 in his application the year instead of 01.05.2020 to 31.05.2020 it is typed as 01.05.2022 to 31.05.2022, hence he required the bank statement from 01.05.2020 to 31.05.2020. Hence, if the application is not allowed and if the complainant is not directed to produce the documents, then the accused not able to prove his defence. Hence it is necessary to give an opportunity to the accused to cross examine PW.1 on the said said document, and to give fair trial to the accused, it is necessary to allow the application and direct the complainant to produce the document as sought in application. Hence the accused not made out grounds to allow the application. Accordingly, point No.1 answered in the Affirmative.

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

ORDER

Application filed by the accused under Section 91 of Cr.P.C. is hereby allowed on cost of Rs.100/-.

Complainant is directed to produce the document as sought in the application.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 3rd day of August, 2024)

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