

KAMD700008052025



**IN THE COURT OF THE
III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MANDYA,
[SITTING AT SRIRANGAPATNA].**

Dated this the 29th day of July, 2026.

PRESENT

Smt. Jyothsna D, LLB, LLM, DFA.

III Addl. District and Sessions Judge, Mandya
[Sitting at Srirangapatna]

Crl.R.P./5038/2025

Petitioner : Pavan K.L S/o Lakshman, 28
years, Kyathanahalli Village,
Kasaba Hobli, Pandavapura Taluk,
Mandya District.

By Sri KK, Advocate.

V/s

Respondent : Santhosha Nayaka K.S S/o
Sannaswamy Nayaka, Aged about
33 years, Kyathanahalli Village,
Kasaba Hobli, Pandavapura Taluk,
Mandya District.

Exparte.

ORDER

The present revision is filed by the complainant in
PCR No.51 of 2025 seeking to restore the matter by setting

aside the order of the Trial Court dated 27.10.2025 wherein PCR No.51 of 2025 came to be dismissed for default.

2. The grounds of revision is that the petitioner herein has filed PCR No.51 of 2025 against the respondent for the offence punishable under Section 138 of Negotiable Instruments Act on 13.10.2025. The same is dismissed for default on 27.10.2025 for the reason of non-prosecution. Prior to 27.10.2025, the petitioner is suffering from jaundice and underwent conventional treatment. Hence, he is not able to appear before the Court. On the date of order counsel for the petitioner was engaged in other work and he was not able to attend the Court. Non-appearance of the complainant and his counsel is on the intentional. If this petition is not allow he would suffer great hardship and loss. Further, if the same is allowed will not cause any hardship to the respondent. Hence, prayed to allow the petition.

3. In response to service of notice, the respondent did not appear before the Court. Hence, placed exparte.

4. Trial Court Records secured.

5. Heard counsel for the petitioner and accordingly, the following points do arise for consideration of this Court;

1. Whether the petitioner has made out grounds for restoring PCR No.51 of 2025 by setting aside the order dated 27.10.2025?
2. What order?
6. The findings of this Court for the above points for consideration are as under;

Point No.1 : In the affirmative.

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

REASONS

7. **Point No.1:** Admittedly, present petition came to be filed by the complainant in PCR No.51 of 2025 invoking Section 438 of Bharatiya Nagarik Suraksha Sanhita seeking to set-aside the order of the Trial Court dated 27.10.2025 and restore the matter for final disposal on the basis of merits of the case.

8. On perusal of Trial Court order sheet, on 13.10.2025, the petitioner herein filed a private complaint under Section 223 of Bharatiya Nagarik Suraksha Sanhita against the respondent herein for the offence punishable under Section 138 Negotiable Instruments Act.

9. In support of the same he has produced original cheque bearing No.678582 dated 08.08.2025 for an amount of Rs.6,00,000/- wherein name of the respondent is printed and affixed signature. He has produced endorsement of dishonor of cheque, legal notice along with postal documents. These documents show that there is a question of facts and law involved in the private complaint, which are to be decided in full-fledged trial. As per Trial Court order sheet, it is posted for recording of sworn statement of the complainant on 18.10.2023. On that date, he remained absent and again matter posted for the same stage on 27.10.2025. Considering his absence on 27.10.2025 at 3.30 p.m. matter came to be dismissed for want of proper prosecution. In that case sworn statement yet to record and summons not issued to the accused. Further, the petitioner has stated that he was suffering from jaundice and taking conventional treatment. Hence, enquiry with regard to ill health is not required. Further, it is well known that as prescriptions for conventional treatment are not available. Hence, passing the matter for enquiry is just to drag the matter.

10. The petitioner has made out prima facie ground offer restoring said PCR as per documents produced by him. Moreover, the respondent herein this appeal has been placed exparte, which gives presumption under Section 119 of Bharatiya Sakshaya Adhinyam. Therefore, considering the prima facie ground established by the petitioner as supra and on the basis of documents produce thereby him before this Court, this Court is of the considered opinion that the petitioner has made out ground to allow this petition. Hence, point No.1 is answered in the affirmative.

11. **Point No.2** : For the foregoing reasons and discussions and considering the findings on point No.1 in the affirmative, this Court proceeds to pass the following:

ORDER

The petition filed by petitioner under Section 438 of Bharatiya Nagarik Suraksha Sanhita, is hereby allowed.

The order of the Trial Court dated 27.10.2025 in PCR No.51 of 2025 is hereby set-aside.

Further, Trial Court is hereby directed to restore the matter to its original file and dispose of the same after full-fledged trial in accordance with law.

Send back Trial Court Records along with copy of this order.

[Dictated to the Stenographer Grade-1, transcript corrected and pronounced by me in open Court on this the 29th day of July, 2026].

[Jyothsna D]

III Addl. District & Sessions Judge,
Mandya, [Sitting at Srirangapattana].