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**IN THE COURT OF LXVII ADDL CITY CIVIL AND
SESSIONS JUDGE; BENGALURU CITY (CCH.No.68)**

PRESENT

**SMT.RASHMI.M.
BA.LL.B., LL.M.
LXVII ADDL CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Dated this the 4th day of April 2026.

Crl. Appeal No.1817/2024

APPELLANT : **Sri.K.A.Vasudeva Reddy,
S/o.Appi Reddy,
Aged about 48 years,
Proprietor,
Bhuvaneshwari Traders,
No.666, 6th Main,
14th Cross, ISRO Layout,
Kumaraswamy Layout,
Bengaluru.**

**(By Sri.K.B.S., Advocate)
(Amicus Curie - Sri.G.A.N.,
DLSA Counsel)**

.Vs.

RESPONDENT : **M/s.Manappuram Chits
(Karnataka) Pvt. Ltd.,
No.2, 2nd Floor, SRS Complex,
6th Main, KHM Block,**

**R.T.Nagar,
Bengaluru.
Rep. by its Asst. Legal Manager
Sri.Ramesha.D.K.
Aged about 42 years.
(By Sri.L.R., Advocate)**

J U D G M E N T

This appeal is preferred by the appellant challenging the conviction judgment and order of sentence passed by the learned XX Addl. Judge, Court of Small Causes & Addl. C.M.M., Bengaluru in C.C.No.4845/2019, dated:29.03.2022 as to the alleged offence under Section 138 of N.I.Act and prays to set aside the impugned judgment & order of sentence and to remand the case back to the trial court to enable the accused to adduce evidence before the trial court and for fresh disposal.

2. The appellant herein was the accused and respondent was the complainant before the trial court. For the sake of convenience, parties would be referred to by the ranks they were assigned before the trial court.

3. **Brief facts of the case are as under:**

The accused was the subscriber of a chit bearing No.RTN001FD-40 in complainant company for a chit

value of Rs.20,00,000/- payable at Rs.50,000/- each for a period of 40 months at R.T.Nagar Branch, Bengaluru. The accused had participated in the chit auction and he was declared as the prize bidder in the said auction. On 15.03.2017 he received the prize amount of Rs.14,00,000/- after deducting the bid amount. In furtherance of the said transaction, the accused had executed relevant documents in favour of the complainant company and he has paid 22 instalments. Thereafter the accused became defaulter in making further payments. On repeated requests and demands made by the complainant company, the accused had issued a cheque bearing No.000068, dated:4.06.2019 for Rs.12,18,633/- drawn on Bank of Baroda, ISRO Layout Branch, Bengaluru. When the complainant had presented the said cheque for encashment, it came to be dishonoured with an endorsement "Funds Insufficient". Thereafter the complainant got issued a legal notice to the accused calling upon him to pay the cheque amount. Despite legal notice, the accused had neither paid the cheque amount nor replied the said notice. Hence, the authorised signatory of the complainant company was constrained to file the complaint under Section 200 of Cr.P.C., against the accused for the offence punishable under Section 138 of N.I.Act.

The learned Addl. C.M.M., Bengaluru after taking cognizance, recorded the sworn statement of the authorised signatory of the complainant company and registered the case in C.C.No.4845/2019 and issued summons to the accused. On appearance of the accused, he was enlarged on bail. The plea of the accused was recorded. The accused has pleaded not guilty and claimed to be tried. The Assistant Legal Manager of the complainant company was examined himself as P.W.1 and got marked 11 documents from Exs.P.1 to 11. After closure of the evidence of complainant, the statement of accused under Section 313 of Cr.P.C., was recorded. The accused has denied the incriminating evidence against him. The accused has chosen not to adduce any defense evidence on his behalf. After hearing the arguments, the learned Magistrate has convicted the accused No.1 for the offence punishable under Section 138 of N.I.Act and sentenced him to pay a fine of Rs.12,28,633/-, in default he shall undergo simple imprisonment for a period of one year. It is further ordered that out of the fine amount, a sum of Rs.12,18,633/- shall be paid to the complainant as compensation and the balance amount of Rs.10,000/- shall be confiscated to the State towards the State expenses.

4. The appellant/accused has preferred this appeal on the following grounds :

It is contended that the impugned judgment passed by the trial court is opposed to law, facts, probabilities and equity of the case. The appellant has not received any amount pertaining to this transaction and he has not issued any cheque pertaining to this transaction. Hence the question of legally recoverable debt does not arise at all. P.W.1 has not produced any specific documents in support of their claim and the complainant is being a company, they are liable to produce the registered certificate of the company of their claim. In the absence of such documents, the trial court has passed the impugned judgment, which is perverse, void and illegal. The learned Magistrate has passed the impugned judgment without giving sufficient opportunity to the accused to put forth his defense evidence. After pleaded not guilty before the trial court, the appellant/accused has ready with his defense evidence. Due to Covid-19 situation and suffering from severe health issues and also he was suffering from financial problems. As such there is a family dispute in the family and hence he was under frustration, mental agony and humiliation. At this stage, he was unable to arrange the advocate fee and as well as arrange food for himself. Under these circumstances, he was unable

to concentrate on the trial and shifted his house to his native place. But the trial court was pleased to close the stage of cross examination of P.W.1 and defense evidence has also closed, without giving opportunity to the appellant/accused to cross examine the P.W.1. Due to financial difficulties and loss of business, the appellant is suffered under financial crises and was unable to pay the advocate fee. Recently when he visited his advocate's office, he came to know about the case. Hence prayed to allow the appeal by setting aside the impugned judgment and order of sentence passed by the trial court.

5. The respondent put his appearance through his counsel.

6. The trial court records were secured.

7. Sri.G.A.N., Advocate from DLSA is appointed as Amicus Curie on behalf of the appellant to assist the court.

8. Heard Amicus curie. The learned advocate for respondent has submitted his written arguments.

9. **The points raised for consideration are as under:**

- 1. Whether the appellant/accused has made out to sufficient grounds to interfere with the impugned**

**judgment and order of sentence
passed by the trial court ?**

2. What Order?

10. **My findings to the above points are:**

POINT No.1 : Negative,

POINT No.2 : As per final order,

for the following:

R E A S O N S

11. **POINT Nos.1 & 2** : I have considered the appeal averments along with complaint averments, oral and documentary evidence placed before the trial court.

12. It is the specific contention of the appellant that during Covid-19 lock down the learned Magistrate has closed the cross examination of P.W.1 and defense evidence without providing opportunity to the accused.

13. In view of the aforesaid contention taken by the accused, it is pertinent to note that on perusal of order sheet in C.C.No.4845/2019 it is observed that the accused had put up his appearance before the on on 27.01.2020 and obtained bail and the case was posted for complainant's evidence on 4.02.2020. On 4.02.2020 the case was referred to Lok Adalath. Thereafter on 2.03.2020 the case was posted for cross examination of P.W.1 and also the advocate for accused

had filed an application under Section 143(A) of N.I.Act and the case was posted for objections and then to hear. The said application was allowed in part vide order dated:23.02.2021 and the case was posted for payment of interim compensation of 10% of the cheque amount and cross examination of P.W.1 to 17.04.2021. Thereafter from 17.04.2021 the case was adjourned on various dates from 25.05.2021, 3.07.2021, 13.07.2021, 10.08.2021, 14.09.2021, 30.09.2021, 7.10.2021, 21.10.2021, 2.12.2021, 10.12.2021, 13.12.2021, 17.12.2021, 21.12.2021, 5.01.2022, 24.01.2022, 19.02.2022, 24.02.2022, 25.02.2022. On 9.03.2022 it is noted that the advocate for accused has filed a memo of retirement along with a notice and acknowledgment for having sent the said notice to the accused. On 28.03.2022 the learned Magistrate has noted in the order sheet that ***“Though the notice issued to the accused by his counsel to appear before the court remained absent and no representation, more soever the accused has not deposited interim compensation amount as ordered by this court within the time stipulated. So as per the ratio laid down in Crl. Petition No.462/2020 by the Hon'ble High Court of Karnataka that if the accused does not comply the order passed under Section 143(A) of N.I.Act, the accused cannot be permitted to cross examine the complainant.*”**

Hence the application under Section 91 of Cr.P.C., does not survive. Heard the arguments of the accused taken as nil and the case was posted for judgment to 29.03.2022". On 29.03.2022 the learned Magistrate has passed the order of conviction.

14. From the aforesaid entries in the order sheet, it can be safely said that the learned Magistrate has given sufficient opportunities for the accused to cross examine the P.W.1 and for settlement. But in the appeal, there is no specific prayer to remand back the matter to permit him to lead defense evidence. Only because one of the grounds of appeal is that the case is liable to be remanded to the trial court for fresh disposal. But in the absence of specific prayer the ground of appeal cannot be treated as prayer.

15. Even after issuance of notice to the appellant and the advocate for appellant, have not appeared before the court to proceed with the appeal. As such, Sri.GAN, Advocate has been appointed as Amicus Curie to assist the court and argue the case on behalf of the appellant. The said behaviour of the appellant and his counsel goes to show that the appeal is filed to protract the proceedings.

16. In view of the discussion made supra, this court

finds no error in the judgment of conviction passed by the learned Magistrate. Further the signature on the cheque, legal notice and legally recoverable debt has been proved before the trial `court. In this regard, the learned Magistrate has given convincing and acceptable reasons. Hence the appellant has not made out grounds to interfere with the impugned judgment and order of sentence passed by the trial court. Hence the appeal stands dismissed. Accordingly, **I answer the Point No.1 in the Negative.**

17. **POINT No.2** : My finding on this point is as per following :

O R D E R

The Crl. Appeal filed by the appellant is hereby dismissed. Consequently, the impugned judgment passed by the learned XX Addl. Judge, Court of Small Causes & Addl. C.M.M., Bengaluru in C.C.No.4845/2019, dated:29.03.2022 stands confirmed.

Send back the records to the trial court along with the copy of this judgment.

(Dictated to then Stenographer Grade-II directly on computer, corrected, signed and then pronounced by me in the open court on this the 4th day of April 2026)

**(RASHMI.M)
LXVII Addl.City Civil & Sessions Judge,
BENGALURU.**