



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY
CRIMINAL REVISION PETITION NO. 171 OF 2024

BETWEEN:

KUM. DIVYA
D/O LATE RAMAMURTHY
AGED ABOUT 29 YEARS
R/O NO.38, FITTERS BLOCK
COROMANDEL POST
K.G.F. TALUK, KOLAR - 563 118.

...PETITIONER

(BY SRI RAGHUPATHI A, ADV.)

AND:

SRI SANTHOSH S
S/O LATE SRINIVASA RAO
AGED ABOUT 34 YEARS
R/AT NO.44, 1ST FLOOR
B MAIN ROAD, J.S.NAGAR
MAHALAKSHMIPURAM
BENGALURU - 560 086.

...RESPONDENT

(BY SRI VISHWANATH KANAVI, ADV.)

THIS CRL.RP IS FILED U/S .397 R/W 401 CR.PC PRAYING TO CALL FOR RECORDS IN CC.NO.2519/2019 ON THE FILE OF 4TH ADDL. AND ACMM (SCCH-6) AT BANGALORE, SET ASIDE THE JUDGMENT AND SENTENCE DATED 13.02.2019 ON THE FILE OF CC.NO.2519/2019 PASSED BY THE 4TH ADDL AND ACMM (SSCH-6) BANGALORE AND PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT MAY DEEM FIT TO GRANT IN FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTERESSET OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY





ORAL ORDER

1. Accused is before this Court in this revision petition filed under Section 397 R/w Section 401 Cr.P.C, with a prayer to set aside the judgment and order dated 13.12.2019 passed in C.C.No.2519/2019 by the Court of IV Addl. ACMM, Bengaluru and the judgment and order dated 17.11.2023 passed in Crl.A.No.361/2022 by the Court of LXVIII Addl. City Civil & Sessions Judge, Bengaluru.

2. Heard the learned counsel appearing for the parties.

3. Respondent herein had initiated proceedings against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, (for short, 'N.I. Act') before the jurisdictional Court of Magistrate in C.C.No.2519 of 2019. It is the specific case of the respondent that petitioner had borrowed a sum of ₹.4,50,000/- and towards repayment of the said amount, cheque in question bearing no.041642 dated 15.03.2019 drawn on ICICI Bank, Lalbagh Road branch, Bengaluru totally for a sum of Rs.5 lakhs was issued in favour of the respondent and the said cheque when presented for



realisation was dishonoured by the drawee bank for the reason 'funds insufficient'. Thereafter, legal notice that was got issued on behalf of the respondent was served on the petitioner. However, the petitioner had not repaid the amount covered under the cheque in question in spite of service of notice. It is under these circumstances, respondent had initiated proceedings against the petitioner for offence punishable under Section 138 of the N.I. Act in C.C.No.2519 of 2019. The Trial Court by judgment and order dated 13.12.2019 convicted the petitioner for offence punishable under Section 138 of N.I. Act and sentenced him to pay ₹.4,50,000/- and in default to undergo simple imprisonment for a period of 3 months. The said judgment and order of conviction and sentence passed by the Trial Court was modified and the petitioner was sentenced to pay fine of Rs.1,75,000/-. Aggrieved by the same, the petitioner is before this Court.

4. Perusal of the material on record would go to show that, the complainant has examined himself as PW.1 and also has produced cheque in question at Ex.P.1. The signature of the petitioner is marked as Ex.P.1(a). The signature of the



petitioner in Ex.P.1 is not in dispute. It is also not in dispute that, the cheque in question was drawn on the bank account of the petitioner maintained in ICICI Bank, Lalbagh Road branch, Bengaluru. The said cheque when presented for realization was dishonoured by the drawee bank. The presumption that arose against the petitioner under Section 139 R/w Section 118 of N.I. Act was not rebutted in the present case in the manner known to law. In addition to the same, the parties had filed a joint memo before the Trial Court, wherein the petitioner had agreed to pay the amount covered under the cheque in question in instalments. She had also paid a sum of Rs.50,000/- by way of cash under the joint memo and the balance amount as agreed in the joint memo has not been paid.

5. During the pendency of the appeal, the petitioner had paid further amount and in all totally a sum of Rs.3,25,000/- was paid to the respondent through cash, phone pay etc., The respondent has admitted receipt of Rs.3,25,000/- from the petitioner and the Appellate Court has recorded the same and it is under these circumstances, it was held that the



petitioner was liable to pay a sum of Rs.1,75,000/- to the respondent and accordingly the order of sentence passed by the Trial Court was modified. Under these circumstances, I do not find any illegality or irregularity in the impugned judgment and order of conviction and sentence passed by the Courts below. Criminal revision petition therefore does not merit consideration. Accordingly, the same is dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

NMS
List No.: 1 SI No.: 27