



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 388 OF 2023

(397(Cr.PC) / 438(BNSS))

BETWEEN:

VISHWANATHA N
S/o NARASIMHAPPA,
AGED ABOUT 43 YEARS,
LINE MECHANIC, GATE 2,
R/o UNIT 6, MESCOM,
MANGALORE ELECTRIC BOARD,
100FT ROAD, NEW MANDLI,
SHIVAMOGGA CITY 577201.

...PETITIONER

(BY SRI. PRASAD B S.,ADVOCATE)

AND:

L.MANJUNATHA
S/o B L LAKKAPPA,
AGED ABOUT 55 YEARS,
R/o 1ST CROSS,
DURGIGUDI,
SHIVAMOGGA CITY 577201

...RESPONDENT

(BY SRI. RAHUL P S, ADVOCATE FOR
SRI. PRASHANTH KUMAR S T, ADVOCATE)

Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE ORDER OF CONVICTION AND SENTENCE AND FINE DATED 26.03.2022 PASSED BY THE II ADDITIONAL SENIOR CIVIL JUDGE AND J.M.F.C., SHIVAMOGGA IN C.C.No.995/2021 FOR THE OFFENCE P/U/S 138 OF N.I. ACT AND THE JUDGMENT AND ORDER OF CONVICTION DATED 07.01.2023 IN CRL.A.No.61/2022 PASSED BY THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-1, SHIVAMOGGA FOR THE OFFENCE P/U/S 138 OF N.I. ACT AND FURTHER BE PLEASED TO ACQUIT THE PETITIONER.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri B.S. Prasad, learned counsel for the revision petitioner and Sri Rahul P.S., learned counsel for the respondent.

2. Revision petitioner is the accused, who suffered an order of conviction dated 26.03.2022 in C.C.No.995/2021, on the file of II Additional Senior Civil Judge and JMFC., Shivamogga for the offence punishable under Section 138 of the Negotiable Instruments Act, confirmed in Crl.A.No.61/2022, dated 07.01.2023, on the file of Additional District and Sessions Judge, Shivamogga.



3. Facts in the nutshell which are utmost necessary for disposal of the present revision petition are as under:

3.1. A complaint under Section 200 of Code of Criminal Procedure came to be filed on the file of II Additional Civil Judge and JMFC., Shivamogga, alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act by contending that accused is a family friend of the complainant who borrowed sum of Rs.1,00,000/- each on 26.11.2017, 03.03.2018 and 19.03.2017 respectively with an assurance to repay the same within a period of six months.

3.2. Towards repayment of the said amount, he has issued a cheque bearing No.331751, dated 22.04.2019, drawn on Syndicate Bank, Gurgigudi Branch, Shivamogga in a sum of Rs.3,00,000/- which on presentation came to be dishonored with an endorsement 'Funds Insufficient' on 23.04.2019.

3.3. A demand notice was issued in writing, calling upon the accused to pay the amount covered under the cheque within a period of 15 days. Though notices were served on the



accused, there was no compliance nor reply. Hence, the complainant HAS sought for action against the accused.

4. Learned Trial Magistrate after completing the necessary formalities summoned the accused and recorded the plea. Accused pleaded not guilty. Therefore, trial was held.

5. In order to bring home the guilt of the accused, complainant proceeded to examine himself as P.W.1 and placed on record seven documentary evidence which were exhibited and marked as Ex.P.1 to Ex.P.7, comprising of dishonored cheque, bank endorsement, legal notice, original RPAD receipts and postal acknowledgment.

6. As against the material evidence placed on record there is no defence evidence placed by the accused on record. Therefore, learned Trial Magistrate noted that there is no rebuttal evidence and convicted the accused and sentenced as under:

"By exercising the powers conferred under section 255(3) of Cr.P.C I hereby convict the accused for the offence punishable under section 138 of NI Act. The accused is sentenced to pay fine of Rs.2,25,000/-(Two lakhs and twenty five thousand rupees only). In default to pay fine he shall undergo simple imprisonment for a term of 3 months.



Further, in exercise of powers conferred under section 357(1) of Cr.P.C it is ordered that out of above said fine amount a sum of Rs.2,20,000/- shall be paid to the complainant and remaining sum of Rs.5,000/- shall go to state.

Bail Bond and Surety Bond of the accused shall remain in force till appeal period is over.

Office is hereby directed to furnish free copy of the Judgment to the accused forthwith.

7. Being aggrieved by the same, accused filed an appeal before the District Court in Criminal Appeal No.61/2022.

8. Learned judge in First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material evidence on record dismissed the appeal.

9. Being further aggrieved by the same, accused is before this Court in this revision.

10. Sri B.S.Prasad, learned counsel for the petitioner, reiterating the grounds urged in the petition would vehemently contend that both the Courts have not properly appreciated the material evidence on record as the complainant did not have any capacity to lend sum of Rs.3,00,000/- to the accused as is alleged in the complaint and therefore, there was no legally



recoverable debt under Ex.P.1 and therefore, sought for allowing the revision petition.

11. Per contra, learned counsel for respondent supports the impugned judgments.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is not in dispute that cheque marked at Ex.P1 belongs to the accused and signature found therein is that of the accused.

14. According to the complainant, he has lent sum Rs.3,00,000/- on three different dates as referred to supra as hand loan to the accused. Accused has assured to repay the same. Towards the repayment of the same, cheque in question came to be issued.

15. Thus, the complainant has discharged the initial burden cast on him to raise the legal presumption as is contemplated under Section 139 of the Negotiable Instruments Act.

16. No doubt, it is a rebuttable presumption. To rebut the said presumption, there is no contra evidence placed on record by the accused either oral or documentary in nature.



17. Therefore, the learned Trial Magistrate was justified in convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced as referred to supra.

18. Learned judge in the First Appellate Court noting that there was no rebuttal evidence on record, took into consideration the answers elicited in the cross examination of P.W.1, wherein only suggestions were put that there was no transaction between the complainant and accused, has rightly rejected the appeal.

19. This Court that too in the revisional Jurisdiction, cannot revisit into the factual aspects of the matter. There is no error of jurisdiction nor patent factual error which would warrant this Court to interfere with the orders passed by both the Courts.

20. Accordingly, the following:

ORDER

- (i) Revision petition is meritless and hereby dismissed.



- (ii) Amount in deposit is ordered to be withdrawn by the complainant under due identification.
- (iii) Balance amount to be paid by the accused on or before 10.04.2026, failing which, he shall undergo imprisonment as ordered by the learned Trial Magistrate, confirmed by the First Appellate Court.

Sd/-
(V SRISHANANDA)
JUDGE

MR
List No.: 1 SI No.: 77