



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. 791 OF 2021

BETWEEN:

SRI VENKATESH
TECHNICIAN -G
AGED ABOUT 57 YEARS
STAFF NO.2379
DRAFTING/DOCUMENTATION DIVISION
AIRPORT ROAD (OLD)
BENGALURU - 560 017.

...PETITIONER

(BY SRI DILEEP N, ADV.)

AND:

SRI B.S. JAYASHANKAR
S/O LATE SRI H.M. SHIVANNA
MAJOR
R/AT NO.75, 1ST STAGE V PHASE
WEST OF CHORD ROAD
RAJAJINAGAR
BENGALURU - 560 044.

...RESPONDENT

(BY SRI NARESH KUMAR P.C, ADV.)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 16.03.2019 PASSED BY THE IX ADDITIONAL SMALL CAUSES JUDGE AND XXXIV ADDL.C.M.M., COURT OF SMALL CAUSES, MEMBER, MACT-7, BENGALURU IN C.C.NO.56195/2014, CONVICTED THE PETITIONER HEREIN FOR THE OFFENCE P/U/S 138 OF N.I. ACT, SENTENCING HIM TO PAY FINE OF RS.1,30,000/- OUT OF THE SAID FINE AMOUNT RS.1,25,000/- TO BE





PAID TO THE COMPLAINANT/RESPONDENT AS COMPENSATION AND BALANCE AMOUNT OF RS.5,000/- TO BE REMITTED AS FINE TO THE STATE AND THE ORDER DATED 26.02.2021 PASSED BY THE LXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-65), BENGALURU IN CRL.A.NO.805/2019 WHO WAS PLEASED TO DISMISS THE APPEAL AND CONFIRM THE ORDER DATED 16.03.2019 PASSED BY THE IX ADDITIONAL SMALL CAUSES JUDGE AND XXXIV ADDL.C.M.M., COURT OF SMALL CAUSES, MEMBER, MACT-7, BENGALURU IN C.C.NO.56195/2014, BE SET ASIDE AND TO ACQUIT THE PETITIONER FROM ALL CHARGES.

THIS PETITION, COMING ON FOR FURTHER HEARING, 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 16.03.2019 passed in C.C.No.56195 of 2014 by the Court of IX Addl. Small Causes and Addl. MACT, Bengaluru and the judgment and order dated 26.02.2021 passed in Crl.A.No.805 of 2019 by the Court of LXIV Addl. City Civil & Sessions Judge, Bengaluru.

2. Heard the learned counsel appearing for the parties.

3. Respondent herein had initiated proceedings against the petitioner before the jurisdictional Court of Magistrate in



C.C.No.56195 of 2014 for offence punishable under Section 138 of Negotiable Instruments Act. It is the case of the respondent that, the petitioner who had borrowed a hand loan of ₹.1,00,000/- from him in the month of March 2014 and towards repayment of the said amount, had issued the cheque in question bearing no.250310 dated 03.05.2014 for a sum of ₹.1,00,000/- drawn on State Bank of India, ISRO Post Box No.1720 Airport road. Bengaluru-560017 in his favour and when the said cheque was presented for realisation through his banker, the same was dishonoured by the drawee bank with a shara "Insufficient funds". The statutory legal notice that was got issued on behalf of the complainant was served on the petitioner and in spite of service of notice, the petitioner had not repaid the amount covered under the cheque in question and on the other hand untenable reply dated 27.05.2014 was issued. It is under these circumstances, complainant had approached the Trial Court in C.C.No.56195 of 2014. In the said proceedings, the Trial Court had convicted the petitioner for offence punishable under Section 138 of N.I. Act and sentenced him to pay fine of ₹.1,30,000/- and in default, to undergo simple imprisonment for a period of 1 year. The said



judgment and order of conviction and sentence passed by the Trial Court was confirmed in Criminal Appeal No.805 of 2019 by judgment and order dated 26.02.2021 by the Court of LXIV Addl. City Civil & Sessions Judge, Bengaluru. It is under these circumstances, the petitioner is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that the documentary evidence available on record does not show that the cheque in question was presented by the complainant through his banker, though in the complaint it is specifically stated so. He submits that, the cheque in question was issued as a guarantee to the earlier transaction between the parties in the year 2013. The other cheques of the same series were all presented in the year 2013 itself. He submits that, petitioner has filed an application under Section 391 of Cr.P.C, with a prayer to permit him to produce the statement of his bank account to substantiate his contentions.

5. Per contra, learned counsel for the respondent has argued in support of impugned judgments and submits that the presumption that arose against the petitioner stood unrebutted



and therefore, the Courts below were justified in convicting and sentencing him. He also submits that, the other cheques of the same series were not presented in sequence in the year 2013 and therefore merely for the reason that the present cheque is dated 03.05.2014, it cannot be said that the same was misused by the complainant. He submits that, the cheque which was issued by the petitioner as a security to the earlier loan of ₹.20,000/- borrowed by him from the respondent is still with him and the present cheque was issued towards repayment of the amount of ₹.1,00,000/- which was borrowed by him separately. He accordingly, prays to dismiss the petition.

6. According to the complainant, petitioner had borrowed a hand loan of ₹.1,00,000/- from him in the month of March 2014 and towards repayment of the said amount the cheque in question dated 03.05.2014 was issued. In the legal notice as well as in the private complaint filed before the Trial Court, the complainant has specifically mentioned that the cheque in question was presented for realisation through his banker on 03.05.2014 and since "funds were insufficient" in the bank account of the petitioner, the said cheque was dishonored



and endorsement as per Ex.P2 was issued by the drawee bank. According to the petitioner, the cheque was never presented for realization and there is no material to show that Ex.P2 was issued by the drawee bank when the cheque in question had come before the bank for realisation. Perusal of the cheque in question would go to show that the said cheque does not bear the seal of the bank or signature of the official before whom the cheque was presented for realisation.

7. Learned counsel for the respondent has submitted that, the cheque in question which was a bearer cheque was presented across the cash counter for realization and since the funds were insufficient in the bank account of the petitioner, the same was returned with endorsement as per Ex.P2. However, in the legal notice as well as in the complaint, it is not stated so and on the other hand, it is specifically mentioned that the cheque in question was presented for the realisation through the banker of the respondent. The respondent has not examined any bank official in the present case to demonstrate as how and why the cheque which was returned by the bank did not have seal or signature of the bank/bank officials.



8. According to the petitioner, the cheque is of the year 2013 and all the other cheques of the very same series were presented for realisation in the year 2013 itself. He has placed on record his bank account statement along with an application filed under Section 319 of Cr.P.C, and perusal of the said document will go to show that, there are entries in the bank account of the petitioner, which would go to show that some cheques of the very same series were presented for realization in year 2013 itself. However, the fact remains that petitioner has not produced his bank account statement before the Trial Court. The petitioner also has not led any defence evidence nor it was put across to PW1 that the cheque in question is of the year 2013 and not of the year 2014.

9. According to the complainant, the cheque which was allegedly issued by the petitioner as security for loan of Rs.20,000/- which was borrowed by him in the month of March, 2013 is still with him. The said cheque also was not produced by him before the trial Court.



10. In view of the aforesaid, I am of the opinion that if the matter is remitted to the Trial Court with liberty to both the parties to lead additional evidence, the same would serve the ends of justice.

11. Accordingly, the following :-

ORDER

- (i) Criminal Revision Petition is allowed.
- (ii) The impugned judgment and order of conviction and sentence passed by the Courts below against the petitioner are set aside.
- (iii) The matter is remitted to the Trial Court to dispose of the matter afresh after giving an opportunity to both the parties to lead further evidence, if any.
- (iv) Since the complaint is of the year 2014, the Trial Court shall make efforts to expedite the trial and dispose of the case on merits at the earliest but not later than a period of six months from the date of appearance of the parties.



- (v) Since the parties are represented by their learned counsels, they shall appear before the Trial Court on **16.03.2026** without awaiting for further notice from the said Court.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE