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NC: 2026:KHC:17231
CRL.RP No. 884 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 884 OF 2023

BETWEEN:

SRI. H.G. RAJANNA
S/O LATE GOOLAPPA
AGED ABOUT 51 YEARS
NO. 10, 5TH CROSS
GAJANANA NAGAR,
HEGAGANAHALLI
BANGALORE - 560 091.

PRESENTY RESIDING AT NO. 12
SHANIMAHTMA TEMPLE ROAD,
MAGADI MAIN ROAD,
CHIKKAGOLLARAHALLI,
BANGALORE - 560 091
(AADHAR NO. 9374 9030 9952)

EMPLOYEE AT THYAGARAJ CO-OPERATIVE BANK,
KAMAKSHIPALYA BRANCH,
NO. 61/1, SANE GUNNAVANAHALLI
MAGADI MAIN ROAD,
YESHWANTHAPURA HOBLI
BANGALORE - 560 079.

...PETITIONER

(BY SRI. MAHABALESHWARA RAO K.N, ADVOCATE)

AND:

GUDDATHIMMAIAH. R,
W/O RANGAIAH
AGED ABOUT 69 YEARS
R/AT NO. 364, RANGANATHA NILAYA,





15TH CROSS, HOYSALANAGARA,
SUNKADAKATTE, BANGALORE - 560 091.

...RESPONDENT

(BY SMT. SHARADA C, ADVOCATE (ABSENT))

THIS CRL.RP IS FILED U/S 482 OF CR.PC PRAYING TO SET ASIDE THE JUDGMENT DATED 20.06.2023 IN CRL.A.NO.430/2021 ON THE FILE OF LXI ADDL.CITY CIVIL AND SESSION JUDGE BENGALURU CONFIRMING THE JUDGMENT DATED 20.04.2021 IN C.C.NO.12994/2017 ON THE FILE OF XIII A.C.M.M, BENGALURU P/U/S 138 OF THE N.I ACT.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Heard Sri.Mahabaleshwara Rao K. N., learned counsel for the revision petitioner. None appears for the respondent.

2. Accused who has suffered an order of conviction in CC No.12994/2017 dated 20.04.2021 on the file of XIII Additional Chief Metropolitan Magistrate, Bengaluru which was confirmed in Crl.A.No.430/2021 dated 20.06.2023 on the file of LXI Additional City Civil and Sessions Judge, Bengaluru (CCH-62) is the revision petitioner.



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

3.1. A private complaint came to be lodged under Section 200 of Cr.P.C. with the jurisdictional Magistrate alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act by contending that accused and complainant are acquainted with each other for several years and during the year 2015, accused requested the complainant to accommodate hand loan in a sum of Rs.10,00,000/- for the purpose of construction of the house of the accused with a promise to repay the same within a short span of time.

3.2. When there was no repayment, several demands were made by the complainant and ultimately accused issued four cheques towards repayment of the hand loan out of which three cheques were post-dated cheques and one cheque bearing No.547735 dated 15.12.2016 got honoured. In respect of remaining three cheques, when presented to the banker of the complainant for collection, all the cheques were returned with an endorsement 'cheque lost report by the holder'.



3.3. A notice was issued by the complainant calling upon the accused to pay the money covered under those three cheques. Accused without complying the callings of the notice, sent an evasive reply and therefore, sought for action against the accused.

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

5. In order to bring home the guilt of the accused, complainant got examined himself as P.W.1 and placed on record fourteen documents which were exhibited and marked as Exs.P.1 to P.14 comprising of original cheques, bank endorsement, copy of the legal notice, postal acknowledgment, complaint and statement of account and accounts extract.

6. As against the material evidence placed on record, accused got examined himself as D.W.1 and placed on record seven documents which were exhibited and marked as Exs.D.1 to D.7 comprising of reply notice, postal receipts, postal acknowledgement, lost article report, affidavit/complaint to the police station and loan sanction communication letter.



7. Learned Trial Magistrate on conclusion of recording of the evidence, heard the arguments of the parties in detail and on cumulative consideration of the oral and documentary evidence placed on record, convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to pay fine in a sum of Rs.8,10,000/- of which sum of Rs.8,00,000/- is to be paid as compensation to the complainant and balance sum of Rs.10,000/- towards defraying expenses of the State.

8. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in CrI.A.No.430/2021.

9. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and reappreciated the material evidence on record and dismissed the appeal filed by the accused.

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

11. Learned counsel for the revision petitioner reiterating the grounds urged in the revision petition



vehemently contended that in the first place, there was no scope for taking legal action under Section 138 of the Negotiable Instruments Act in view of the endorsement 'cheque lost report by the holder'.

12. Therefore, it is argued that very initiation of the proceedings and taking cognizance itself is wrong by the learned Trial Magistrate which has been mechanically upheld though brought to the notice of the First Appellate Court while placing reliance on the judgment of the Hon'ble Apex Court in the case of ***M.S.Narayana Menon @ Mani v. State of Kerala and Another*** reported in ***(2006) 6 SCC 39***.

13. He would further contend that assuming that a offence punishable under Section 138 of the Negotiable Instruments Act has taken place, complainant had no occasion to lend sum of Rs.10,00,000/- to the accused inasmuch as a loan was obtained by the accused vide Ex.D.7 from the bank. Therefore, very transaction itself is not proved.

14. He would further point out that complainant was visiting the house of the accused as admitted by him and during such visits, he has come to the custody of the cheques



in question which were misplaced by the accused and in that regard, a complaint was lodged with the police and endorsement is also placed on record. Therefore, the banker returning the cheque with the aforesaid endorsement is just and proper and thus, sought for allowing the revision petition.

15. In view of the absence of learned counsel for the respondent, the contentions urged on behalf of the revision petitioner is taken into consideration and perused the records meticulously.

16. On such perusal of the material on record, the principles of law enunciated in the case of ***M.S.Narayana Menon @ Mani v. State of Kerala and Another*** reported in ***(2006) 6 SCC 39*** is diluted by the subsequent judgment of the Hon'ble Supreme Court which has been discussed at length by the learned Judge in the First Appellate Court.

17. Further, merely on the ground that the endorsement came to be issued by the banker to the effect that 'cheque lost report by the holder' itself would not *ipso facto* take away the jurisdiction of the learned Trial Magistrate for the



offence punishable under Section 138 of the Negotiable Instruments Act.

18. It is incumbent on the part of the accused to establish that cheque has been misused by the complainant.

19. In that regard, except lodging the complaint to the police, no further action has been taken especially when the accused has come to know that it is the complainant who has misused the cheque that too when he had the services of an Advocate when he appeared before the learned Trial Magistrate pursuant to the summons received in CC No.12994/2017.

20. Thus, the theory put forward on behalf of the accused that there was no case made out for taking cognizance under Section 138 of the Negotiable Instruments Act is rightly rejected by the learned Trial Magistrate which was confirmed by the First Appellate Court.

21. This would take this Court to the next limb of argument addressed on behalf of the revision petitioner that there was no necessity for the accused to take the loan of



Rs.10,00,000/- from the complainant inasmuch as he had obtained the loan from the bank vide Ex.D.7.

22. Merely on the ground that accused had obtained loan from his banker vide Ex.D.7, would not *ipso facto* make out that he did not borrow the amount from the complainant.

23. No doubt, in the complaint, there is no specific date that has been mentioned as to when the complainant has lent sum of Rs.10,00,000/- to accused.

24. However, how the cheque in a sum of Rs.2,00,000/- dated 15.12.2016 came to be encashed and why balance three cheques were dishonoured, there is no explanation forthcoming from the accused.

25. If at all, he has not borrowed any amount from the complainant as is sought to be portrayed by him before this Court in this revision petition, no explanation is forthcoming as to why he paid sum of Rs.2,00,000/- that too by cheque to the complainant.

26. Taking note of these aspects of the matter and having regard to the limited scope of revisional jurisdiction, this



Court is of the considered opinion that well reasoned orders of the learned Trial Magistrate confirmed by the First Appellate Court needs no interference.

27. Hence, the following:

ORDER

Revision petition is ***dismissed***.

**Sd/-
(V SRISHANANDA)
JUDGE**

KAV
List No.: 1 Sl No.: 36