



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. 1048 OF 2022

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

BETWEEN:

SRI. ZAFFARULLAH KHAN
S/O SHUKOOR KHAN
AGED ABOUT 67 YEARS,
RESIDING AT NO.26,
G-4, SRI SAI VILLA
1ST FLOOR, COFFEE BOARD LAYOUT,
HEBBALA, KEMPAPURA
BENGALURU - 560 024.

...PETITIONER

(BY SRI. A.S. KULKARNI, ADVOCATE)

AND:

SRI. T. CHANDRASHEKARIAH
S/O LATE THAMMAIAH
AGED ABOUT 55 YEARS,
PROPRIETOR,
M/S. YASHASWINI TRADERS
RESIDING AT NO.231,
5TH MAIN ROAD, APMC YARD
YESHWANTHAPURA
BENGALURU - 560 022.

...RESPONDENT

(BY SRI. G. RAVI KUMAR, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND
SENTENCE DATED 09.04.2019 PASSED BY THE LEARNED XII
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU





IN C.C.NO.19056/2017 AND THE JUDGMENT AND ORDER DATED 12.05.2022 PASSED BY THE LEARNED LXVIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-69) BENGALURU CITY IN CRL.A.NO.1146/2019.

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.A.S.Kulkarni, learned counsel for the revision petitioner. None appears for the respondent.

2. Accused who has suffered an order of conviction in CC No.19056/2017 dated 09.04.2019 which was confirmed by the First Appellate Court in Crl.A.No.1146/2019 dated 12.05.2022 for the offence punishable under Section 138 of the Negotiable Instruments Act is the revision petitioner.

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

3.1. A private complaint came to be filed under Section 200 of Cr.P.C. alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act by contending that complainant and accused are acquainted with each other.



3.2. Complainant is running a rice mandi and has supplied rice bags to the accused as detailed below:

Date	Bill No.	Bags	Amount
25.01.2017	384	157	Rs.1,62,300/-
30.01.2017	386	60	Rs.74,500/-
31.01.2017	387	50	Rs.50,000/-
08.02.2017	388	118	Rs.1,50,000/-
			Rs.4,10,000
On 10.02.2017 on the request of the accused Rs.10,000/- was deducted by giving discount			Rs.10,000/-
Total			Rs.4,00,000/-

3.3. Towards payment of the bill amount, three cheques bearing Nos.807538, 807539 and 807540 in a sum of Rs.1,50,000/-, Rs.1,50,000/- and Rs.1,00,000/- respectively came to be issued which on presentation came to be dishonored with an endorsement 'funds insufficient'.



3.4. There was no compliance to the callings of the legal notice and therefore, sought for action by the complainant against the accused.

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

5. In order to prove the case of the accused, complainant got examined himself as P.W.1 and placed on record ten documents which were exhibited and marked as Exs.P.1 to P.10 comprising of three dishonored cheques, bank endorsements, office copy of the legal notice, postal acknowledgement and reply notice.

6. As against the material evidence placed on record, accused got examined himself as D.W.1 and one witness as D.W.2 and placed on record four documents which were exhibited and marked as Exs.D.1 to D.4 comprising of Form-A, reply notice issued by APMC, receipt and certified copy of the complaint in CC No.16525/2012.



7. Learned Trial Magistrate after completing the recording of the evidence, convicted the accused and sentenced the accused to pay sum of Rs.4,25,000/- as the fine amount of which sum of Rs.4,20,000/- is ordered to be paid as compensation to the complainant and balance sum of Rs.5,000/- towards defraying expenses of the State with default sentence of two months simple imprisonment.

8. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Crl.A.No.1146/2019.

9. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappraisal of the material evidence placed on record, 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 cheque in question was misused by the complainant and complainant is a stranger to the accused



and there was no transaction between the complainant and the accused which has been not properly appreciated by both the Courts and sought for allowing the revision petition.

12. Learned counsel for the respondent being absent, this Court perused the material on record meticulously in the light of the arguments put forth on behalf of the revision petitioner.

13. On such perusal of the material on record, there is no dispute that Exs.P.1 to 3 – cheques belongs to the accused and signature found therein is that of the accused.

14. Complainant has specifically stated as to the delivery of the rice bags as referred to supra.

15. Form-A filed by the accused and the reply given by the accused is marked at Exs.D.1 and D.2 which would make it clear that there was a transaction between the complainant and the accused.

16. According to the accused, cheques in question marked at Exs.P.1 to 3 are given to one Rafiq and it has been misused by the complainant.



17. When a reply notice is issued, it is necessary for the accused to take necessary action against Rafiq and the complainant for having misused the cheques.

18. Action should have taken against the Rafiq and the complainant. No criminal action has been taken even after the accused came to know that Exs.P.1 to 3 – cheques came to be misused by the complainant which was actually issued to Rafiq.

19. Further, Rafiq is not cited as a witness and why the cheques have been handed over to Rafiq is also not explained by the accused though he got examined himself as D.W.1.

20. Taking note of these aspects of the matter, defence evidence that was placed on record was not sufficient to rebut the presumption available to the complainant under Section 139 of the Negotiable Instruments Act. Therefore, order of conviction recorded by the learned Trial Magistrate confirmed by the First Appellate Court needs no interference that too in the revisional jurisdiction.



21. Accordingly, following:

ORDER

Revision petition is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 34