



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. 1086 OF 2022

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

BETWEEN:

SMT. ABHILEKHA
W/O CHANDRA @ CHANDRASHEKAR,
AGED ABOUT 38 YEARS
R/A KHAJI SONNENAHALLI,
NEAR LAKSHMINARASIMHASWAMY TEMPLE,
KANAMANGALA POST,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK
BENGALURU - 560 067.

...PETITIONER

(BY SRI. SRIKANTH N.V, ADVOCATE)

AND:

SMT. SAVITHA K.S,
D/O LATE SIDDAPPA,
R/AT NO. 33, KHAJI SONNENAHALLI,
KANAMANGALA POST,
BIDARAHALLI POST,
BENGALURU EAST TALUK,
BENGALURU - 560 067.

...RESPONDENT

(BY SRI. THANGARAJAN J, ADVOCATE (ABSENT))

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT DATED
18.07.2022 PASSED IN CRL.A.NO.13/2020 ON THE FILE OF I
ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU
RURAL DISTRICT, BENGALURU THEREBY DISMISSED THE





CRIMINAL APPEAL FILED BY THE PETITIONER BY CONFIRMING THE JUDGMENT OF CONVICTION AND SENTENCE DATED 18.01.2020 PASSED IN C.C.NO.1197/2018 ON THE FILE OF ADDL.C.J.M., BENGALURU RURAL DISTRICT, BENGALURU AND CONSEQUENTLY ALLOW THE ABOVE PETITION AS PRAYED FOR.

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.Srikanth N. V., learned counsel for the revision petitioner. None appears for the respondent.

2. Accused who has suffered an order of conviction in CC No.1197/2018 dated 18.01.2020 on the file of Additional Chief Judicial Magistrate, Bengaluru which was confirmed by the First Appellate Court in Crl.A.No.13/2020 dated 18.07.2022 on the file of Additional District and Sessions Judge, Bengaluru 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 revision petitioner is a close friend of the complainant and borrowed hand loan in a sum of Rs.4,00,000/- during first week of August, 2016 with a promise to repay the same within a short span of time.

3.2. Towards repayment of the said hand loan, cheque bearing No.041000 dated 09.10.2017 drawn on Central Bank of India, Kadugodi Branch in a sum of Rs.4,00,000/- came to be issued which on presentation came to be dishonored with an endorsement 'funds insufficient'.



3.3. A legal notice was caused demanding the payment of the amount covered under the cheque which has been served on the accused and an untenable reply came to be issued by the accused 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 prove the case of the complainant, complainant got examined himself as P.W.1 and placed on record seven documents which were exhibited and marked as Exs.P.1 to P.7.

6. As against the material evidence placed on record, accused got examined herself as D.W.1 and placed on record three documents which were exhibited and marked as Exs.D.1 to D.3.



7. Thereafter, learned Trial Magistrate after completing the recording of evidence, noted that there was no proper rebuttal evidence placed on record by the accused and convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced as under:

"Acting under Section 255(2) of Cr.P.C., the accused persons is found guilty for the offence punishable under Section 138 of the Negotiable Instruments Act.

The accused shall sentence to pay fine of Rs.4,10,000/- and he shall undergo simple imprisonment for six months for the offence punishable under Section 138 of the Negotiable Instruments Act.

Fine amount is to be paid to the complainant as compensation."

8. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Crl.A.No.13/2020.



9. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material evidence placed on record, dismissed the appeal filed by the accused by holding in paragraph Nos.10 to 13 as under:

"10. POINT NO.1 & 2 : As both the points are interlinked, in order to avoid repetition of facts and evidence, they are taken together for discussion. The main contention of the appellant is that the signature on the cheque doesn't belong to her. She used to make signature in English and the signature on Ex.P.1-Cheque is in Kannada. The appellant has produced documents at Ex. D1 to D3 to show that she used to sign in English. It is pertinent to mention here that the appellant admits that she has issued the cheque to the complainant. It is the contention of the appellant that she had borrowed a sum of Rs.30,000/- from the complainant and had given blank cheque for security purpose. The said amount was returned to the complainant. Despite receiving the said amount, the complainant failed to return the cheque to the appellant. Thereafter, the complainant forged her signature in Kannada and presented the same for encashment. It is pertinent to mention here that, if the appellant's signature



was forged on the cheque, she should have taken steps to send the cheque for handwriting analysis by filing appropriate application before the trial court. No such steps were taken. Further, as per Ex.P.2- cheque return memo, the cheque has been dishonoured for want of sufficient funds. If there was mismatch in the signature, the bank would have issued endorsement regarding the same. But in the instant case, the cheque has been dishonoured for want of funds.

11. Furthermore, the appellant asserts that she has returned the loan amount of Rs.30,000/- to the complainant. After returning the said amount, she made several requests to the complainant to return the cheque. Despite that, her cheque was not returned and the same has been misused. It is pertinent to note here that if the appellant came to know that her cheque is being misused by the Complainant, she should have taken immediate steps by filing complaint against her and by issuing notice against her for misusing her cheque. Further, the appellant could have issued letter to her Bank to stop payment of the cheque. No such steps have been taken by the appellant.



12. It is pertinent to mention here that, when a cheque is issued then there is a presumption with regard to consideration in favour of holder of cheque. Sec.139 of N.I. Act states that unless the contrary is proved, it is presumed that the holder of the cheque received the cheque of the nature referred in Sec.138 of N.I. Act for discharging whole or any part of any debt or other liability. Therefore, the trial court having regard to the aforesaid facts, rightly raised the presumption U/Sec.139 of N.I. Act and held that the accused has issued the cheque towards discharge of her liability without maintaining sufficient balance in her account and thereby, convicted the accused for the offence punishable U/Sec.138 of N.I. Act.

13. In the instant case, the appellant has failed to rebut the said presumption. Since the appellant has failed to establish the fact that the complainant has misused her cheque, it is very difficult to hold that the appellant has not at all issued cheque in favour of the complainant towards discharge of debt. There is no infirmity in the impugned judgment passed by the trial court. As such there is no scope for interference by this Court. Hence, these two points are answered in Negative."



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 complainant has misused the blank cheque issued to the complainant when she has borrowed sum of Rs.30,000/- to repay the same and therefore, sought for allowing the revision petition.

12. He would further contend that signature of the accused in the admitted document is in English as 'Abhilekha' whereas in the cheque it has been signed as 'ಅಭಿಲೇಖಾ' in Kannada language and therefore, it is a case of clear misuse of the blank cheque by the complainant and thus, sought for admitting the revision petition for further consideration.

13. 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.

14. On such perusal of the material on record, banker of the accused did not dishonor the cheque on the ground that the signature did not tally.

15. Accused did not summon the specimen signature given to the Central Bank of India to establish that she has furnished the specimen signature in English language and therefore, cheque is misused by the complainant.

16. Moreover, such a contention was not at all taken in the reply notice.

17. Taking note of these aspects of the matter only in order to avoid liability under Ex.P.1, a false defence has been taken by the accused which has not been established by the accused by placing cogent evidence on record.



18. Accordingly, in the absence of any rebuttal evidence placed by the accused, learned Trial Magistrate and learned Judge in the First Appellate Court were justified in recording the order of conviction against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act which requires no interference by this Court that too in the revisional jurisdiction.

19. Accordingly, following:

ORDER

Revision petition is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 35