



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL REVISION PETITION NO. 1018 OF 2019

BETWEEN:

C.P.NAVEEN KUMAR,
S/O LATE C M PREMANATH,
AGED ABOUT 33 YEARS,
R/O PAVANA KRUPA,
RAJAPPA COMPOUND,
AGRAHARA CIRCLE, FORT,
CHIKKAMAGALURU - 577 101.

...PETITIONER

(BY SMT.SHIVANI SHETTY K, AMICUS CURIAE)

AND:

SMT S.KRISHNAMMA,
W/O LATE NANJAPPA,
AGED ABOUT 67 YEARS,
RETIRED JUDGMENT WRITER,
R/A RAJAPPA COMPOUND,
AGRAHARA CIRCLE, FORT,
CHIKKAMAGALURU - 577 101.

...RESPONDENT

(BY SRI.G.S.BHAT, ADVOCATE)

THIS CRL.RP IS FILED U/S. CR.P.C BY THE ADVOCATE
FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT
MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED
12.10.2018 PASSED BY THE III ADDITIONAL CIVIL JUDGE AND
J.M.F.C., CHIKKAMAGALURU IN C.C.NO.43/2015 BY





CONVICTING THE PETITIONER AND THE SAME ORDER WAS CONFIRMED BY THE JUDGMENT DATED 23.07.2018 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHIKKAMAGALURU IN CRL.A.NO.176/2018 AND THE PETITIONER TO BE ACQUITTED FOR THE OFFENCE ALLEGED AGAINST HIM.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused is before this Court in this Criminal revision petition filed under Section 397 read with Section 401 of Cr.PC with a prayer to set aside the judgment and order dated 12.10.2018 passed in C.C.No.43/2015 by the Court of III Additional Civil Judge and JMFC, Chikmagalur and the judgment and order dated 23.07.2019 passed in Crl.A.No.176/2018 by the Court of II Additional District and Sessions Judge, Chikkamagaluru.

2. Heard the learned *Amicus curiae* on behalf of the petitioner and learned counsel for the respondent.

3. Respondent herein who is a retired government servant had initiated proceedings against the petitioner



before the Jurisdictional Court of Magistrate in C.C.No.43/2015 for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I.Act'). It is the case of the respondent/complainant that petitioner had borrowed a sum of Rs.5,00,000/- from her and towards repayment of the said amount the cheque-in-question bearing No.111710 dated 30.08.2014 for a sum of Rs.5,00,000/- drawn on ICICI Bank, Chikkamagaluru was issued in her favour. When the said cheque was presented by the complainant for realisation through her banker, the same was dishonoured by the drawee bank with a shara 'funds insufficient. The complainant thereafter issued a legal notice to the petitioner which was duly served. The petitioner had sent a reply notice raising untenable defence and it is under these circumstances, the respondent had approached the Judisdictional Court of Magistrate by filing a private complaint against the petitioner for offence punishable under Section 138 of the N.I.Act.



4. In the said proceedings the Trial Court had convicted the petitioner for offence punishable under Section 138 of the N.I.Act and sentenced him to pay Rs.6,02,000/- (Rupees Six Lakhs Two Thousand only) and in default to undergo simple imprisonment for a period of two months. The said judgment and order of conviction and sentence passed by the Trial Court in C.C.No.43/2015 was confirmed in Crl.A.No.176/2018 by judgment and order dated 23.07.2019 passed by the Court of II Additional District and Sessions Judge, Chikkamagaluru. Therefore, the petitioner is before this Court.

5. Learned *Amicus curiae* submits that Courts below have failed to properly appreciate the defence put forward by the petitioner and have erred in holding that petitioner had not rebutted the presumption that arose against him. She submits that respondent has not produced any material before the Court to show her transaction with the petitioner. The cheque-in-question was issued as a



security to the son of the respondent and not to the respondent. The said cheque has been misused.

6. *Per contra*, learned counsel for the respondent has argued in support of the impugned judgment and order and submits that petitioner has taken inconsistent defence before the Trial Court. He also submits that the petitioner has not disputed his signature and handwriting found in the cheque-in-question. Accordingly, he prays to dismiss the petition.

7. According to the complainant, the petitioner who is acquainted to her had borrowed a sum of Rs.5,00,000/- and towards repayment of the said amount the cheque-in-question was issued by him in her favour. The said cheque, when presented for realisation was dishonoured by the drawee bank with a shara 'funds insufficient'. Complainant has examined herself as PW.1 before the Trial Court to substantiate her case against the petitioner. During the course of her deposition she has



reiterated the averments made by her in the private complaint filed against the petitioner. Ex.P1 is the cheque-in-question and Ex.P1(a) is the signature of the petitioner in the said cheque. Petitioner has not disputed his signature in Ex.P1 cheque nor has he disputed his handwriting found in the cheque-in-question. It is also not in dispute that the cheque-in-question was drawn on the bank account of the petitioner, maintained by him in ICICI Bank, Chikkamagaluru Branch. The said cheque when presented for realization was dishonoured by the drawee bank. Undisputedly, the legal notice issued on behalf of the complainant after the cheque was dishonoured, was duly served on the petitioner.

8. Under the circumstances, a presumption arises against the petitioner as provided under Section 139 read with Section 118 of the N.I.Act. Unless the said presumption is rebutted, by putting forward a probable defence, the petitioner is liable to be convicted for offence punishable under Section 138 of the N.I.Act. In the reply



notice (Ex.P5), petitioner has stated that the cheque-in-question was issued to Naveen Kumar, who is the son of the complainant, as a security for loan of Rs.20,000/- borrowed by petitioner. He has stated that the said amount of Rs.20,000/- was repaid to Naveen Kumar and in spite of the same Naveen Kumar had not returned the cheque and his mother had misused the same. However during the course of deposition of the petitioner who is examined as PW.1, he has taken a totally different defence before the Trial Court.

9. PW.1 has stated that he and Naveen Kumar were partners in a coffee shop and during the course of business, as security the cheque-in-question was given by him to Naveen Kumar. DW.1 has further stated that he has not borrowed any amount even from Naveen Kumar and this statement of DW.1 is contrary to the defence taken by him in his reply notice (Ex.P5). The Trial Court having appreciated that the petitioner had not rebutted the presumption that arose against him as aforesaid has



therefore convicted him for the offence punishable under Section 138 of the N.I.Act. The Appellate Court having re-appreciated the oral and documentary evidence available on record has confirmed the judgment and order of conviction. I do not find any illegality or irregularity in the impugned judgment and order of conviction passed by the Courts below. Even the order of sentence passed against the petitioners is just and proper and the same does not call for any interference by this Court. Under the circumstances, I do not find any good ground to entertain this petition. Accordingly, the following:

ORDER

- i. The Criminal revision petition is ***dismissed.***
- ii. The services of learned *Amicus curiae* is placed on record, and her fee is fixed at Rs.20,000/-.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE