



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. 1452 OF 2021

BETWEEN:

SRI K BHARATH,
S/O K R KRISHNAMURTHY,
AGED ABOUT 47 YEARS,
RESIDENT OF H K ROAD,
UPPALLI INDAVARA POST,
CHIKMAGALURU - 577 101.

...PETITIONER

(BY SRI.B.V.SHRAVAN BHARADWAJ, ADVOCATE)

AND:

SRI B D SHIVANANDA,
S/O B M DYAVEGOWDA,
AGED ABOUT 51 YEARS,
RESIDENT OF BIRADA HALLI VILLAGE,
SUNDEGERE POST,
SAKALESHURA TALUK,
HASSAN DISTRICT - 573 127.

...RESPONDENT

(BY SRI.T.G.PAVAN, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONBLE COURT MAY BE PLEASED TO SET ASIDE THE CONVICTION AND SENTENCE PASSED BY THE CIVIL JUDGE AND JMFC SAKALESHPURA IN C.C.NO.31/2011 DATED 23.10.2017 AND II ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN





DATED 28.09.2021 IN CRL.A.NO.274/2019 ON 28.09.2021
AND PETITIONER MAY BE ACQUITTED.

THIS PETITION, COMING ON FOR ORDERS, 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 judgment and order dated 23.10.2017 passed in C.C.No.31/2011 by the Court of Civil Judge and JMFC, Sakleshpur, and the judgment and order passed in Crl.A.No.274/2019 dated 28.09.2021 passed by the Court of II Additional District and Sessions Judge, Hassan.

2. Heard the learned counsel for the parties.

3. The respondent who is the complainant in the present case has initiated proceedings against the petitioner for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I.Act') before the Jurisdictional Court of Magistrate in



C.C.No.31/2011. It is the case of the complainant that petitioner is acquainted to him and he had entered into an agreement for sale on 04.12.2009 for the purpose of purchase of standing trees in the property belonging to the petitioner and towards advance sale consideration he had paid a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) under the said agreement. Subsequently, he came to know that the land belonged to government and there were no standing trees as represented by the petitioner. It is under these circumstances, subsequently another agreement was executed on 13.02.2010 and towards repayment of the amount received under the earlier agreement, the cheques-in-question bearing Nos.466100 and 466098 for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) and Rs.10,00,000/- (Rupees Ten Lakhs only) each drawn on Indian Overseas Bank, Sakaleshpura was handed over to the respondent. The said cheques when presented for realization, were dishonoured by the drawee Bank and it is under these circumstances, the respondent



got issued legal notice to the petitioner which was duly served on him. In spite of service of notice the petitioner had not repaid the amount covered under the cheques-in-question nor any reply notice was sent. It is under these circumstances, the respondent had initiated proceedings against the petitioner in C.C.No.31/2011 for the offence punishable under Section 138 of N.I.Act. The Trial Court had convicted the petitioner in said proceedings for offence punishable under Section 138 of the N.I.Act and sentenced him to pay fine of 15,00,000/- (Rupees Fifteen Lakhs only) and in default to undergo simple imprisonment for a period of three months. The said judgment and order of conviction and sentence passed by the Trial Court was confirmed by the Appellate Court in Crl.A.No.274/2019. It is under these circumstances, the petitioner is before this Court.

4. The complainant in order to substantiate his case before the Court has examined himself as PW.1 and the cheques-in-question are marked as Exs.P4 and P5. The



signature of the petitioner found in the said cheques are not in dispute and it is also not in dispute that the cheques were drawn on the bank account of the petitioner maintained by him in Indian Overseas Bank, Sakaleshpura. The said cheques were dishonoured by the drawee bank when presented for realisation and the legal notice which was thereafter got issued on behalf of the complainant was duly served on the petitioner. Under the circumstances, a presumption as provided in Section 139 read with Section 118 of the N.I.Act arises against the petitioner and unless the petitioner successfully rebuts the said presumption by putting forward a probable defence, he is liable to be convicted for offence punishable under Section 138 of the N.I.Act.

5. In the present case, the agreements executed between the parties are produced as Exs.P14 and P15 and the signatures of the parties found in the said agreements are also not in dispute. It is also relevant to note here that the respondent/complainant has filed O.S.No.110/2010



before the Jurisdictional Civil Court for recovery of the amount covered under the cheques-in-question. The said suit was decreed and the copy of the judgment and decree passed in O.S.No.110/2010 is produced as Ex.P23. Therefore, the transaction between the parties and the liability of the petitioner is proved by the respondent in the present case.

6. The petitioner has taken a defence that the cheques-in-question were issued at a security under the agreement executed between the parties. In the present case the transaction between the parties is proved and O.S.No.110/2010 which was filed by the respondent against the petitioner for recovery of the amount covered under the cheques-in-question was decreed. Under the circumstances, the defence raised by the petitioner does not have legs to stand. The Trial Court as well as the Appellate Court having appreciated the aforesaid aspects of the matter have rightly convicted the petitioner for the offence punishable under Section 138 of the N.I.Act. I do



not find any illegality or irregularity in the said judgment and order of conviction passed by the Courts below. Even the order of sentence passed against the petitioner is just and proper and it does not call for interference.

7. Under the circumstances, I do not find any good ground to entertain this revision petition. Accordingly, the Criminal revision petition is ***dismissed***.

8. Pending applications do not survive for consideration. Accordingly, the said applications are also ***dismissed***.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

KVR
List No.: 1 Sl No.: 8