



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.1328 OF 2023

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

BETWEEN:

A. V. KRISHNAMURTHY
S/O. VEERABHADRAIAH,
AGED ABOUT 50 YEARS,
RESIDING AT NO.66,
MICO LAYOUT, W.O.C. ROAD,
RAJAJINAGAR,
BENGALURU-560 086.

...PETITIONER

(BY SRI. A.V.KRISHNAMURTHY, PARTY-IN-PERSON)

AND:

SRI. B.T.NAGESH
S/O. B.T.THIMMAIAH,
AGED ABOUT 44 YEARS,
R/AT NO. 854, 10TH CROSS,
DIVANARAPALYA,
YESHWANTHAPURA,
BENGALURU-560 054.

...RESPONDENT

(BY SRI. ANIKETHANA K.M., ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C. PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 15.03.2022 PASSED BY THE LXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE BENGALURU IN CRL.A.NO.1765/2019 AND ALSO THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATED 05.07.2019 PASSED IV ASCJ AND XXX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE (SCCH-6) BENGALURU, IN C.C.NO.1643/2018 AND ACQUIT THE PETITIONER FROM THE ALLEGED OFFENCE.





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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri A.V Krishnamurthy, revision petitioner/party-in-person and Sri Anikethana K.M, learned counsel for the respondent.

2. Revision petitioner is the accused who suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act in C.C No.1643/2018 confirmed in Criminal Appeal No.1765/2019.

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

3.1 A private complaint under Section 200 of the Code of Criminal Procedure came to be filed alleging the commission of an offence punishable under Section 138 of the Negotiable Instruments Act by contending that petitioner/accused and Narayanappa are friends of the complainant who are working in M/s Bosch Limited.

3.2 Complainant was also working in the said Company and in order to repay the bank loan, accused obtained



Rs.20,00,000/- as loan from complainant through Narayanappa. Accused agreed to repay the said amount in July 2016, but failed to do so.

3.3 After sufficient persuasion, a cheque came to be issued which on presentation came to be dishonored. There was a demand in writing by issuing the notice to repay the amount. But there was neither compliance nor reply. Therefore, complainant sought for action.

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

5. Complainant got examined himself and placed on record six documents which were exhibited and marked as Exhibits P-1 to P-6 comprising of dishonored cheque, bank endorsement, copy of the legal notice, postal receipt, postal acknowledgment and loan agreement.

6. As against the material evidence placed on record there is no defence evidence. In other words, the directions issued by the Hon'ble Apex Court in the case of **Indian Bank**



Association and others vs. Union of India and others

reported in ***(2014)5 SCC 590*** was not complied by the accused.

7. However, the learned Trial Magistrate even in the absence of an application under Section 145 of Negotiable Instruments Act, permitted the accused to cross-examine the complainant.

8. But detailed cross-examination of the complainant did not yield any result so as to disbelieve the case of the complainant or to rebut the presumption available to the complainant under Section 139 of the Negotiable Instruments Act.

9. Accordingly, learned Trial Magistrate convicted the accused and sentenced him to pay fine of Rs.20,00,000/- and Rs.5,000/- as defraying expenses of the State.

10. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Criminal Appeal No.1765/2019.



11. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material on record, dismissed the appeal by considered judgment dated 15.03.2022.

12. Thereafter, petitioner is before this Court in this revision petition.

13. Sri A.V.Krishnamurthy, revision petitioner who is appearing as party-in-person, reiterating the grounds urged in the petition would contend that there was no legally recoverable debt to the tune of Rs.20,00,000/- and there are serious discrepancies which has been pointed out to the Trial Magistrate and learned Judge in the First Appellate Court, but the same was not taken into consideration properly resulting in miscarriage of justice and sought for allowing the revision petition.

14. He would further contend that the material on record would go to show that Exhibit P-1 was forcibly extracted and there is no legally recoverable debt and in that regard, he



wants to place on record photocopies of screenshots from his mobile phone as additional evidence.

15. He would further contend that when there is no legally recoverable debt under Exhibit P-1, order of conviction recorded by the learned Trial Magistrate confirmed by the learned Judge in the First Appellate Court is bad in law and sought for allowing the revision petition.

16. *Per contra*, Sri Anikethana, learned counsel for respondent supports the impugned judgments.

17. He would further contend that the presumption available to the complainant is not rebutted as there is no defence evidence on record and cross-examination of PW-1 did not yield any positive evidence.

18. He would further contend that there is no scope for placing the additional evidence, that too, in the revisional Court which are in the form of photocopy of the screenshots and thus sought for dismissal of the revision petition.



19. Having heard the arguments of both sides, this Court perused the material on record meticulously.

20. On such perusal of the material on record, cheque marked at Exhibit P-1 belongs to the accused and signature found therein is that of the accused.

21. Admittedly, there is no compliance to the callings of notice, though served on the accused. It is the first opportunity for the accused to say that the cheque was misused which has been forcibly extracted. No such attempt is made by the accused.

22. Admittedly, complainant is not a stranger inasmuch as he was a co-worker of the accused in M/s Bosch Limited.

23. Taking note of these aspects of the matter, and also taking note of the fact that there is no contra evidence placed on record, the learned Trial Magistrate was justified in raising the initial presumption in favour of the complainant under Section 139 of the Negotiable Instruments Act.



24. Admittedly there is no defence evidence to rebut the presumption available to the complainant under Section 139 of the Negotiable Instruments Act.

25. Thus, order of conviction recorded by the learned Trial Magistrate confirmed by the learned Judge in the First Appellate Court needs no interference, in view of the principles of law laid down by the Hon'ble Apex Court in the case of ***Rangappa vs. Sri Mohan*** reported in ***(2010)11 SCC 441***; ***Rajesh Jain vs. Ajay Singh*** reported in ***(2023)10 SCC 148*** and ***Sanjabij Tari vs. Kishore S. Borcar and another*** reported in ***2025 SCC OnLine SC 2069***.

26. Thus, the following:

ORDER

(i) Revision petition is meritless and is hereby ***dismissed***.

(ii) In view of dismissal of the petition, I.A.No.1/2026 stands disposed of.

Sd/-
(V SRISHANANDA)
JUDGE