



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY
CRIMINAL REVISION PETITION NO. 1455 OF 2023

BETWEEN:

SRI TEJAMURTHY C.R.
RAMESHWARAI AH
AGED ABOUT 32 YEARS
R/AT CHATACHANAHALLY VILLAGE
HALEBEEDU HOBLI
BELUR TLAUK - 573 115
HASSAN DISTRICT.

...PETITIONER

(BY SRI SHARATH KUMAR G.M, ADV., FOR
SRI JAGADEESH H.T, ADV.)

AND:

SRI NAGESHA D.R.
S/O RAJANNA
AGED ABOUT 35 YEARS
R/AT NO.30, 3RD STAGE
VIJAYANGARA EXTENSION
HASSAN - 573 201.

...RESPONDENT

(BY SRI GIRISH B. BALADARE, ADV.)

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 26.06.2023 PASSED BY THE III ADDL. DISTRICT AND SESSIONS JUDGE, HASSAN, IN CRL.A.NO.27/2022 AND CONFORMING THE JUDGMENT AND ORDER DATED 29.12.2021 PASSED BY THE PRL. CIVIL JUDGE AND JMFC AT HASSAN, IN C.C.NO.63015/2017.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY





ORAL ORDER

1. Accused is before this Court in this revision petition filed under Section 397 R/w Section 401 of Cr.P.C, with a prayer to set aside the judgment and order of conviction and sentence passed in C.C.No.6015 of 2017 dated 29.12.2021 by the Court of Prl. Civil Judge & JMFC, Hassan and the judgment and order dated 26.06.2023 passed in Criminal Appeal No.27of 2022 by the Court of III Addl. District & Sessions Judge, Hassan.

2. Heard the learned counsel appearing for the parties.

3. Respondent / complainant had initiated proceedings against the petitioner before the jurisdictional Court of Magistrate in C.C.No.6015 of 2017 for offence punishable under Section 138 of N.I. Act. It is the case of the respondent that, petitioner, who was acquainted to him had borrowed a sum of ₹.2,00,000/- as hand loan and towards repayment of the said amount, he had issued the cheque in question bearing No.253387 dated 28.09.2017 for a sum of ₹.2,00,000/- drawn on State Bank of Mysore, Halebeedu branch in his favour. When the said cheque was presented for realisation, the same was



dishonoured by the drawee bank with shara "Funds insufficient". The legal notice that was got issued on behalf of the complainant thereafter to the petitioner was neither served. In spite of service of legal notice, the petitioner had neither paid the amount covered under the cheque nor was any reply notice issued on his behalf. It is under these circumstances, respondent had approached the Trial Court by filing a private complaint against the petitioner for offence punishable under Section 138 of N.I. Act. In the said proceedings, the Trial Court had convicted the petitioner for offence punishable under Section 138 of N.I. Act and sentenced him to pay fine of ₹.2,05,000/- and in default to undergo simple imprisonment for a period of 6 months. The said judgment and order of conviction and sentence passed by the Trial Court in C.C.No.6015 of 2017 was confirmed by the Appellate Court in Criminal Appeal No.27 of 2022 by judgment and order dated 26.06.2023. It is under these circumstances, petitioner is before this Court.

4. The complainant in order to prove his case had examined himself before the Trial Court as PW1 and had



reiterated the complaint averments during the course of his deposition. Ex.P1 is the cheque in question and Ex.P1(a) is the signature of the accused. Ex.P3 is the copy of the legal notice and Ex.P5 is the postal cover with an endorsement "unclaimed". It is under these circumstances, the Trial Court had held that, the legal notice that was issued to the petitioner was required under Section 138 of the N.I. Act was deemed to have been served.

5. The petitioner, who had disputed his signature in the Cheque at Ex.P1 has not made any efforts before the Trial Court for verification or comparison of the disputed signature with the admitted signature by any expert. Comparison of the signature at Ex.P1(a) with the admitted signature of the petitioner / accused in his vakalath clearly goes to show that both the signatures are made by the same person. The petitioner has set up a defence before the Trial Court that cheque in question was stolen by the respondent and thereafter misused. However, even after receiving the legal notice or the summons in the present proceedings, no steps were taken by the petitioner to file any complaint against the respondent



herein for misusing the stolen cheque. The cheque was not dishonoured by the drawee bank for the reason that signature of the drawer differs and on the other hand the cheque was returned with a shara "funds insufficient". When the signature found in Ex.P1-cheque belongs to the petitioner and if the cheque in question is drawn on the bank account of the petitioner, then a presumption as provided under Section 139 R/w Section 118 of Negotiable Instruments Act arises against him and unless, he rebuts the same by putting forward a probable defence that he is liable to be convicted for offence punishable under Section 138 of the N.I. Act.

6. In the present case, the petitioner has completely failed to rebut the aforesaid presumption that arose against him and it is under these circumstances, the Trial Court has convicted the petitioner for offence punishable under Section 138 of N.I. Act. The Appellate Court, having re-appreciated the oral and documentary evidence available on record has rightly confirmed the judgment and order of conviction passed by the Trial Court. Even the order of sentence passed against the petitioner by the Courts below is just and proportionate. Under



the circumstances, I do not find any good ground to entertain this petition.

7. Accordingly, the petition is dismissed.

8. Respondent / complainant is permitted to withdraw the amount deposited by the petitioner before the Trial Court.

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**

NMS
List No.: 1 SI No.: 29