



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY
CRIMINAL REVISION PETITION NO. 1626 OF 2023

BETWEEN:

S. CHANNABASAVIAIAH
S/O SHIVANNA
AGED ABOUT 36 YEARS
R/AT BENCHE GATE
GOPALADEVARAHALLI POST
BUKKAPATNA HOBLI
SIRA TALUK - 572 125
TUMAKURU DISTRICT.

...PETITIONER

(BY SRI VIVEK S, ADV.)

AND:

JAYANNA D
S/O DASAPPA
AGED ABOUT 30 YEARS
R/AT GUMMANAHALLI GOLLARAHATTI
YALIYUR POST, KASABA HOBLI
SIRA TALUK - 572 137
TUMAKURU DISTRICT.

...RESPONDENT

(BY SRI SHREEHARSHA L.M, ADV.)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO ALLOW THE REVISION PETITION AND SET ASIDE THE ORDER OF CONVICTION AND SENTENCE FOR THE ALLEGED OFFENCE P/U/S.138 OF NI ACT 1881 INCLUDING THE PAYMENT OF FINE DATED 06.11.2023 PASSED BY THE HONBLE VII ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU IN CRL.A.NO.43/2023 CONFIRMING THE ORDER DATED 15.04.2023 PASSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC SIRA IN C.C.NO.140/2021.

THIS PETITION, COMING ON FOR FURTHER 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 petition filed under Section 397 R/w 401 of Cr.P.C with a prayer to set aside the judgment and order of conviction and sentence passed in C.C.No.140 of 2021 dated 15.04.2023 by the Court of Principal Civil Judge & JMFC, Sira and the judgment and order dated 06.11.2023 passed in Criminal Appeal No.43 of 2023 passed by Court of VII Addl. District & Sessions Judge, Tumakuru.

2. Heard the learned counsel appearing for the parties.

3. Respondent herein had initiated proceedings against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, (for short, 'N.I. Act') before the jurisdictional Court of Magistrate in C.C.No.140 and 2021. It is the specific case of the respondent that petitioner and he were friends and at the request of petitioner, he had paid a hand loan of ₹.6,00,000/- and towards repayment of the said amount, cheque in question bearing no.784421 dated 20.11.2020 drawn on Canara Bank, Kallambella branch was



issued in favour of the respondent and the said cheque when presented for realisation was dishonoured with a shara "funds insufficient". Thereafter, the statutory legal notice that was got issued on behalf of the respondent was served on the petitioner. However, the petitioner had not repaid the amount covered under the cheque in question in spite of service of notice. It is under these circumstances, respondent had initiated proceedings against the petitioner for offence punishable under Section 138 of the N.I. Act in C.C.No.140 of 2021. The Trial Court by judgment and order dated 15.04.2023 convicted the petitioner for offence punishable under Section 138 of N.I. Act and sentenced him to pay ₹.6,10,000/- and in default to undergo simple imprisonment for a period of 6 months. The said judgment and order of conviction and sentence has been upheld by the Appellate Court in Criminal Appeal No.43 of 2023, which was dismissed on 06.11.2023. It is under these circumstances, the petitioner is before this Court.

4. The respondent / complainant, in order to substantiate his case, had examined himself before the Trial



Court as PW1 and 5 documents were got marked as Ex.P1 to P5. PW.1 has reiterated the averments made by him in the complaint during the course of his deposition. Ex.P1 is the original cheque issued by the petitioner in favour of the respondent for a sum of ₹.6,00,000/-. The signature of the petitioner found in Ex.P1 is not in dispute. It is also not disputed that Ex.P.1 - cheque was drawn on the bank account of the petitioner maintained by him in Canara bank, Kallambella branch. The said cheque was dishonored by the drawee bank when presented for realisation. Under the circumstances, there is a presumption available against the petitioner as provided under Section 139 R/w Section 118 of the N.I. Act and unless the petitioner rebuts the said presumption in accordance with law by putting forward a probable defence, the petitioner is liable to be convicted for the offence punishable under Section 138 of the N.I. Act.

5. Perusal of the material on record would go to show that, the petitioner has not set up any specific defence in the present case. Except denying the oral and documentary evidence placed on record by the complainant, the petitioner



has not made any other attempt to rebut the presumption that arose against him.

6. Perusal of the material on record would also go to show that, before the Trial Court, the parties had entered into a settlement and the petitioner had agreed to pay sum of ₹.4,50,000/- to the respondent towards full and final settlement. Even though such a settlement was entered into between the parties in the month of December 2022 itself, thereafter, the petitioner had not come forward to honour his commitment. It is under these circumstances, the Trial Court thereafter heard the arguments addressed on both sides and having found that the petitioner had failed to rebut the presumption that arose against him has rightly convicted and sentenced 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 and sentence passed against the petitioner by the Trial Court. Under the circumstances, 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 petitioner by the Courts below is just and proportionate and the same does not call for interference. Under the circumstances. I do not find any good ground to entertain this petition.

Accordingly, the petition is dismissed.

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

NMS
List No.: 1 SI No.: 42