



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. 1602 OF 2025

BETWEEN:

1. P S SRINIVAS
S/O LATE SUBBANNA
AGED ABOUT 57 YEARS,
R/AT PULVARIPALLI VILLAGE,
PARAGODU POST,
KASABA HOBLI, BAGEPALLI TALUK,
CHIKKABALLAPURA DISTRICT.

...PETITIONER

(BY SRI. ANANDA V, ADVOCATE)

AND:

1. V RAMAKRISHNA
S/O VENKATARAYAPPA
AGED ABOUT 34 YEARS,
R/AT KARIGANAPALYA VILLAGE,
YALAGERE POST,
CHIKKABALLAPURA TALUK AND DISTRICT

...RESPONDENT

(BY SRI. RAMESH N.K, ADVOCATE)





THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C (U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED 09.06.2025 AND JUDGMENT DATED 05.12.2023 PASSED IN CC 617/2016 PASSED BY THE PRL. CIVIL JUDGE & JMFC., AT CHIKKABALLAPURA AND JUDGMENT IN CRL.A.NO.02/2025 DATED:. 09-06-2025 ON THE FILE OF III-ADDL DISTRICT AND SESSIONS JUDGE AT CHIKKABALLAPURA AND ALLOW THIS REVISION PETITION AND DISMISS THE CC 617/2016 FILED BY THE RESPONDENT ON THE FILE OF THE PRL. CIVIL JUDGE & JMFC., AT CHIKKABALLAPURA.

THIS PETITION, COMING ON FOR SETTLEMENT, 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.P.C. with a prayer to set aside the judgment and order dated 05.12.2023 passed in C.C.No.617/2016 by the Principal Civil Judge and JMFC, Chikkaballapura and the judgment and order dated 09.06.2025 passed in Crl.A.No.2/2025 by the III Additional district and Sessions Judge at Chikkaballapura.

2. Heard the learned counsel for the parties.
3. The respondent/complainant initiated proceedings against the petitioner or offence punishable under Section 138



of Negotiable Instruments Act, 1881 (for short, 'N.I. Act) before the jurisdictional Court of the Magistrate in C.C.No.617/2016.

4. It is the case of the complainant that, the petitioner, who is his father-in-law, had borrowed a sum of Rs.7,50,000/- as hand loan and towards repayment of the said amount, issued the cheque in question bearing No.073984 dated 24.11.2015 drawn on State Bank of Mysore, Chikkaballapura Branch, in his favour. The said cheque, when presented for realization was dishonored by the drawee bank with shara "Funds Insufficient". Thereafter, the legal notice that was got issued on behalf of the complainant, was duly served on the petitioner. In spite of service of legal notice, the amount covered under the cheque in question was not repaid nor was any reply notice issued on behalf of petitioner. Under these circumstances, the complainant had approached the jurisdictional Court of Magistrate by filing a private complaint against the petitioner for the offence punishable under Section 138 of N.I. Act .

5. In the said proceedings, the Trial Court had convicted the petitioner for offence punishable under Section



138 of N.I. Act and had sentenced him to pay fine of Rs.7,55,000/- 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.617/2016 was confirmed in CrI.A.No.2/2025 by judgment and order dated 09.06.2025 passed by the III Additional district and Sessions Judge at Chikkaballapura. It is under these circumstances, petitioner is before this Court.

6. The complainant in order to prove his allegations against the petitioner had examined himself as PW.1. He has reiterated the averments made by him in the complaint during the course of his deposition. Ex.P1 is the cheque in question issued by the petitioner in favour of the complainant. Ex.P2 is the Bank endorsement and Ex.P3 is the copy of the legal notice issued on behalf of the complainant to the petitioner. Ex.P4 is the postal cover and Ex.P5 is the postal receipt. The legal had returned with a shara "Refused" and therefore, the Trial Court had held that legal notice was deemed to have been served on the accused and accordingly, proceeded with the matter.



7. The petitioner has not disputed his signature on the cheque in question nor has he disputed that the cheque in question was drawn on the Bank account maintained by him in State Bank of Mysore, Chikkabalapura Branch. The said cheque when presented for realization was dishonoured by the drawee Bank. Under the circumstances, presumption as provided under Section 139 and 118 of the N.I. Act, arises as against the petitioner. Unless the said presumption is rebutted 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 N.I. Act.

8. The law in this regard has been laid by the Hon'ble Supreme Court in the case of ***K. N. Beena vs. Muniyappan and Another***, reported in ***(2001) 8 SCC 458*** and ***Hiten P.Dalal Vs Bratindranath Banerjee***, reported in ***AIR 2001 SC 3897***. The petitioner as against whom the presumption as aforesaid arose, has not set up any defence before the Trial Court. He has neither stepped into the witness box nor was any document got marked before the Trial Court by him.



9. Under the circumstances, the presumption that arose against him stood and unrebutted and it is under the circumstances, the Trial Court had convicted him for the alleged offence. The Appellate Court, having re-appreciated the oral and documentary evidence available on record, has confirmed the judgment and order of conviction passed by the Trial Court. I do not find any illegality or irregularity in the impugned judgment or order of conviction passed by the Courts below, which calls for interference by this Court in exercise of its revisional jurisdiction. Even the order of sentence passed against the petitioner by the Courts below is just and proportionate and does not call for interference. Under the circumstances, I do not find any good ground to entertain this petition.

10. Accordingly, the Criminal revision petition is ***dismissed.***

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

SMC
List No.: 1 Sl No.: 44