



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 2399 OF 2025 (A)

BETWEEN:

1. CLOTIDA GERMAINE LOBO
D/O GILBERT PAUL CARLO,
AGED ABOUT 52 YEARS,
15-17-897/16, MYSTICAL ROSE,
4TH CROSS, NEAR ESI HOSPITAL,
SHIVABAGH KADRI,
MANGALORE, PIN-575002

...APPELLANT

(BY SRI. G. RAVISHANKAR SHASTRY.,ADVOCATE)

AND:

1. MOHANDAS POOJARY
S/O GIRIYAPPA POOJARY, MAJOR
R/O LARETTO PADAV HOUSE, 2/94
NEAR MRPL WATER TANK, LORETTO POST,
BANTWAL TALUK, PIN-574219

...RESPONDENT

(NOTICE TO RESPONDENT IS DISPENSED WITH)

CRL.A FILED U/S 378(4) CR.P.C (U/S 419(4) BNSS) BY
THE ADVOCATE FOR THE APPELLANT/S PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO SET ASIDE THE
JUDGEMENT DTD 21.02.2025 IN CC.NO.585/2021 PASSED BY
THE LEARNED JMFC V COURT, MANGALURU.





THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the Order dated 21.02.2025, passed by the learned JMFC V Court, Mangaluru, (hereinafter referred to as 'trial Court'), in C.C.No.585/2021.

2. The complainant had filed a complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'N.I. Act'). After taking cognizance, the case was registered in C.C.No.581/2021. Summons was issued to the accused. In response to summons, accused appeared before the Trial Court and was enlarged on bail. Substance of pleadings was recorded, accused pleaded not guilty.

3. The learned advocate for the accused had filed an application under Section 145(2) of 'NI Act' to cross



examine the complainant. Thereafter, case was being adjourned from time to time till 9.10.2023. That, on 9.10.2023, the trial Court has passed the following order:

"Complainant and accused present.

Advocate for complainant and accused present and filed joint memo stating that the accused is ready to pay the entire cheque amount of Rs.12,00,000/- and in this regard today the accused has paid Rs.5,50,000/- to the complainant through DD No.839289. The remaining amount of Rs.6,50,000/- shall be paid to the complainant in two installments.

The terms of the joint memo is read and explained to both the parties to which they have agreed to abide with the terms of Joint memo. For balance payment on 22.02.2024."

4. Thereafter, case was posted for payment of balance amount. The case was being adjourned from time to time till 21.02.2025.

5. The Learned counsel for the appellant submits that due to the mistake of the learned counsel for the complainant before the trial Court, PF was not paid.

6. Considering the facts and circumstances of the case and submission of the learned counsel for the appellant, I proceed to pass the following:



ORDER

(i) The Appeal is allowed.

(ii) Impugned Order dated 21.02.2025, passed by the learned JMFC V Court, Mangaluru, in C.C.No.585/2021 is set aside, and C.C.No.585/2021 shall be restored to file.

(iii) The complainant/appellant is directed to appear before the trial Court without seeking any further notice from trial Court on **01.04.2026**.

(iv) The trial Court is directed to provide an opportunity to the complainant to take the necessary steps to secure the accused. Thereafter the trial Court is directed to proceed with the case in accordance with law.

Registry directed to send the copy of this order to the trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**

HR