



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL REVISION PETITION NO. 100072 OF 2025

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

BETWEEN:

SHRI SURAJ S/O DEVENDRA RASHIVADE
AGE. 27 YEARS, OCC. AGRICULTURE,
R/O. JATRAT 591237,
ALUKA NIPPANI DISTRICT BELAGAVI.

...PETITIONER

(BY SMT. SUNANDA P. PATIL, ADVOCATE)

AND:

SHRI BRAHAMANATH CREDIT SOU
SAHAKARI NIYAMIT NIPPANI
AGE. 54 YEARS, OCC. SERVICE,
R/O. NIPPANI 591237,
TALUKA NIPPANI DISTRICT BELAGAVI.

...RESPONDENT

(BY SRI. CHETAN MUNNOLI, ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 438 R/W 442 OF BNSS, PRAYING TO ALLOW THE PETITION BY SETTING ASIDE THE JUDGMENT DATED 01.03.2025 PASSED BY THE VII ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI SITTING AT CHIKODI IN CRL. APPEAL NO.5026/2024 THEREBY CONFIRMING THE JUDGMENT DATED 27.02.2024 IN C.C.NO.55/2022 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, NIPPANI FOR THE OFFENCE P/U/SEC. 138 OF NI ACT AND ETC.,.

THIS CRIMINAL REVISION PETITION COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:





ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

Learned counsel for the respondent would submit that there is no possibility of amicable settlement. As such, the matter is heard on merits.

2. Heard Smt.Sunanda P. Patil, learned counsel for the petitioner and Sri.Chetan Munnoli, learned counsel for the respondent.

3. Petitioner being the accused in CC No.55/2022 suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act and ordered to pay fine amount of Rs.25,40,246/- of which sum of Rs.25,35,246/- was ordered to be paid as compensation to the complainant bank and balance sum of Rs.5,000/- towards defraying expenses of the State.

4. Order of conviction and sentence was subject matter of the appeal before the First Appellate Court in Crl.A.No.5026/2024.



5. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and dismissed the appeal filed by the accused.

6. Thereafter, petitioner is before this Court, in this revision.

7. Learned counsel for the revision petitioner would contend that transaction is no doubt admitted between the bank and the petitioner but the oral testimony of the accused and four documents which were placed on record vide Exs.D.1 to D.4 were not properly appreciated by both the Courts resulting in miscarriage of justice and sought for allowing the revision petition.

8. Per contra, learned counsel for the respondent would contend that cheque that has been issued towards repayment of the loan amount admittedly, got dishonoured. Thereafter, there was no response to the statutory notice and as such, the complainant establishes the transaction between the complainant and the accused not only by



placing statement of account of the loan transaction but also by placing on demand promissory note and original dishonoured cheque and bank endorsement and therefore, sought for dismissal of the revision petition.

9. Having heard the arguments of the parties in detail, this Court perused the material on record meticulously.

10. On such perusal of the material on record, it is crystal clear that loan transaction between the complainant and the accused is established by placing cogent and convincing evidence on record.

11. Admittedly, cheque belongs to the accused and signature found therein is that of the accused.

12. Pendency of the civil dispute *ipso facto* would not come in the way of Criminal Court convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act.



13. It is always open for the petitioner to bring it to the notice of the Court where the civil proceedings are pending as to the payment that would be made pursuant to the conviction order and seek necessary deduction in the civil proceedings in respect of the loan transaction.

14. Reserving such liberty for the petitioner, this Court does not find any good grounds to interfere with the order of conviction.

15. Having said thus, imposition of Rs.5,000/- towards defraying expenses of the State by the learned Trial Magistrate needs interference in this revision as the *lis* is privy to the parties and no State machinery is involved.

16. Accordingly, the following:

ORDER

- i. Revision Petition is ***allowed in part.***
- ii. While maintaining the conviction of the petitioner for the offence punishable under



Section 138 of the Negotiable Instruments Act, fine amount of Rs.25,40,246/- is reduced to sum of Rs.25,35,246/-.

- iii. Entire amount of Rs.25,35,246/- is ordered to be paid as compensation to the complainant under due identification.
- iv. Sum of Rs.5,000/- imposed by the Trial Court confirmed by the First Appellate Court towards defraying expenses of the State is hereby set aside.
- v. Amount in deposit, if any, is ordered to be withdrawn by the complainant under due identification.
- vi. Balance amount to be paid by the petitioner on or before **20th February, 2026.**



- vii. Office is directed to return the Trial Court Records along with the copy of this order forthwith, for issue of modified conviction warrant.

Sd/-
(V.SRISHANANDA)
JUDGE

KAV,
CT:CMU
LIST NO.: 1 SL NO.: 95