



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
CRIMINAL APPEAL NO.100268 OF 2019 (A)

BETWEEN:

SHREE SHIVAYOGI URBAN CO-OPERATIVE
CREDIT SOCIETY LTD., BASAVAN GALLI, BELAGAVI,
REP. BY TIS CHIEF EXECUTIVE OFFICER,
SHRI DAYANAND CHANNABASAPPA BALI,
AGE: 57 YEARS, OCC: PVT. SERVICE, R/O. BELAGAVI.

...APPELLANT

(BY SRI YASH NADAKARNI, ADV. FOR
SRI VITTHAL S TELI, ADVCOATE)

AND:

APPASAHEB BASAVENNAPPA KARALE,
AGE: 72 YEARS, OCC: RETIRED GOVT. SERVANT,
R/O. PLOT NO.240, 1ST STAGE,
TILAKWADI, BELAGAVI-590006.

...RESPONDENT

(BY SRI PRASHANT S. HOSAMANI, ADVOCATE.)

THIS CRIMINAL APPEAL IS FILED U/S.378(4) OF THE CODE OF CIVIL PROCEDURE, 1973, PRAYING TO THE JUDGMENT DATED 04.05.2019 IN CRL.A.NO.11/2018 BY THE XI-ADDITIONAL DISTRICT & SESSIONS JUDGE, BELAGAVI, WHEREIN REVERSING THE JUDGMENT DATED 02.01.2018 PASSED BY THE VII-JMFC COURT, BELAGAVI, IN C.C. NO.72/2017 AND THEREBY ACQUITTING THE ACCUSED/RESPONDENT FOR OFFENCES U/S.138 OF NI ACT, MAY KINDLY BE SET AISDE, IN THE INTEREST OF JUSTICE.

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



CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

This appeal is filed by the complainant calling in question the order dated 04.05.2019 passed in Crl.A.No. 11/2018 by the XI Additional District and Sessions Judge, Belagavi¹, reversing the judgment dated 02.01.2018 passed in C.C.No.72/2017 by the VII JMFC, Belagavi².

2. The complainant had initiated proceedings under Section 200 of the Code of Criminal Procedure³ for the offence punishable under Section 138 of the Negotiable Instruments Act. The learned Magistrate, upon consideration of the material on record, convicted the accused for the said offence and imposed sentence.

3. Being aggrieved by the same, the accused preferred Crl.A.No.11/2018 before the Sessions Court. The learned Sessions Judge, upon re-appreciation of the

¹ Hereinafter referred to as "the Sessions Judge"

² Hereinafter referred to as "Magistrate"

³ Hereinafter referred to as "Cr.P.C"



evidence, allowed the appeal and set aside the judgment of conviction and sentence.

4. Being aggrieved by the said order of acquittal, the complainant has preferred the present appeal.

5. The learned Sessions Judge has observed that the complainant failed to establish that the accused stood as a surety for the loan transaction, and on that ground, the appeal is allowed and the judgment of conviction is set aside.

6. In the present appeal, the appellant/complainant has filed an application under Section 391 read with Section 482 of the Cr.P.C, seeking permission to produce additional evidence along with loan document and other supporting documents.

7. It is the submission of the learned counsel for the appellant/complainant that, in order to address the findings recorded by the learned Sessions Judge, the appellant has now produced additional documentary evidence. According



to him, these documents would establish that the respondent/accused stood as a surety for the loan transaction. Therefore, he prays that the appeal be allowed and the matter be remanded to the trial Court for fresh consideration.

8. Per contra, the learned counsel for the respondent/accused has justified the judgment of acquittal passed by the learned Sessions Judge and prays for dismissal of the appeal.

9. The appellant/complainant has sought to produce additional evidence, which, according to him, is necessary for proper adjudication of the matter, particularly to establish that the respondent stood as a surety in the loan transaction. In order to secure the ends of justice and to afford an opportunity to both parties, this Court is of the considered opinion that the application filed under Section 391 of Cr.P.C. and appeal are deserves to be allowed.

10. Accordingly the following;



ORDER

- i. I.A.No.1/2019 filed for production of additional documents is ***allowed***.
- ii. The appeal is ***allowed***.
- iii. The order of acquittal dated 04.05.2019 in Crl.A.No.11/2018 passed by the XI Additional District and Sessions Judge, Belagavi is hereby set aside.
- iv. The matter is remanded to the learned Magistrate for fresh consideration, with liberty to the parties to adduce additional evidence in accordance with law, for the limited purpose of determining whether the respondent stood as surety for the loan transaction.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**