



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL REVISION PETITION NO. 100352 OF 2023

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

BETWEEN:

SRI MARAPPA P. NAYAK S/O PERUMAL NAYAK
AGED ABOUT 54 YEARS, OCC. BUSINESS,
R/O. HARIDEV NAGA, HABBUWADA,
KARWAR TALUK 581 301,
UTTARA KANNADA DISTRICT.

...PETITIONER

(BY SRI. PRAVEEN P. TARIKAR, ADVOCATE)

AND:

SRI KRISHNA R. NAIK S/O RENUKA NAIK
AGED ABOUT 64 YEARS, OCC. BUSINESS
R/O. SAKALBENA, AVERSA ANKOLA TALUK
UTTARA KANNADA DISTRICT 581301

...RESPONDENT

(BY SRI. R.H. ANGADI, ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED U/SEC. 397(1) R/W 401 OF CR.P.C. SEEKING TO CALL FOR RECORDS IN CRIMINAL APPEAL NO.75/2017 BEFORE THE PRL. DIST AND SESSIONS JUDGE KARWAR, UTTARA KANNADA AND IN CC NO.243/2014 ON THE FILE JMFC 2ND COURT AT KARWAR. AND SET ASIDE THE IMPUGNED JUDGMENT DATED 14.07.2023 PASSED BY THE PRL. DISTRICT AND SESSION JUDGE UTTARA KANNADA KARWAR, IN CRIMINAL APPEAL NO.75/2017 MODIFIED AND DIRECTED TO PAY RS.3,05,000/- OUT OF 3,05,000/- RS.3,00,000/- TO COMPLAINANT AS COMPENSATION AND REMAINING RS.5,000/- TO STATE AND IN DEFAULT THE ACCUSED SHALL UNDERGO SIMPLE IMPRISONMENT FOR SIX MONTHS, AGAINST THE ORDER OF CONVICTION BY SENTENCING THE ACCUSED TO PAY RS.3,80,000/- AS FINE AND IN DEFAULT OF FINE CMOUNT SIMPLE IMPRISONMENT FOR PERIOD OF ONE YEAR PASSED IN C.C.NO.





243/2014 DATED 24.11.2017 BY THE JMFC 2ND COURT KARWA, IN THE INTEREST OF JUSTICE.

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

ORAL ORDER

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

1. Heard Sri. Praveen P. Tarikar, learned counsel for the petitioner and Sri. R. H. Angadi, learned counsel for the respondent.

2. Accused is the revision petitioner who has suffered an order of conviction dated 24.11.2017 passed in C.C.No.243/2014 by the J.M.F.C. – II Court, Karwar¹, which is confirmed in Criminal Appeal No.75/2017 by the Principal District and Sessions Judge, Uttara Kannada, Karwar², vide its judgment dated 14.07.2023.

3. Facts in nutshell which are utmost necessary for disposal of the present revision petition are as under:

¹ For short, 'the Trial Court'

² For short, 'the First Appellate Court'



3.1. A private complaint came to be lodged under Section 200 of Code of Criminal Procedure, 1973, alleging the offence punishable under Section 138 of Negotiable Instruments Act,1881³.

3.2. Complaint averments would reveal that the accused is his friend and he had borrowed hand loan of Rs.3,00,000/- in the month of January-2013 and agreed to repay the same within one month.

3.4. The accused on 29.10.2013 has issued a cheque bearing No.214226 for Rs.3,00,000/-, which on presentation came to be dishonored stating that 'no sufficient funds'.

4. Learned Trial Magistrate after completing the necessary formalities recorded the evidence of the complainant.

5. The complainant examined himself as PW1, and the documents produced by him namely cheque, endorsement of the bank, postal acknowledgment, legal

³ For short, 'N.I. Act'



notice and reply to the legal notice were marked as Exhibits P1 to P5.

6. Thereafter, the learned Trial Magistrate convicted the accused for the offence punishable under Section 138 of N I Act, and awarded fine amount of Rs.3,80,000/-. Out of which a sum of Rs.5,000/- towards defraying expenses to the State.

7. Being aggrieved by the same, accused filed an appeal in Criminal Appeal No.75/2017.

8. Learned Judge in the First Appellate Court after securing the records, heard the argument of the parties and dismissed the appeal.

9. Being further aggrieved by the same, the accused is before this Court in this Revision Petition.

10. Learned counsel for the petitioner reiterating the grounds urged in the petition vehemently contended that both the Courts have not properly taken note of the material evidence on record and wrongly convicted the accused and sought for allowing of the revision petition.



11. *Per contra*, learned counsel for the respondent supports the impugned judgment.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is noticed that the cheque in question which is marked at Exhibit P1 belongs to the accused and signature found therein is that of the accused.

14. According to the complainant the same was issued by the accused towards the repayment of hand loan.

15. Admittedly, the statutory notice was not replied though duly served on the accused.

16. Thus, the learned Trial Magistrate raised the presumption under Section 139 of N.I. Act in favour of complainant; but to rebut the said presumption there is no defense evidence placed on record.

17. Under such circumstances, recording the order of conviction and imposing the fine amount of Rs.3,80,000/- is



just and proper and requires no interference before this Court that too in the revisional jurisdiction.

18. Accordingly, the following:

ORDER

The petition is ***dismissed***.

**Sd/-
(V.SRISHANANDA)
JUDGE**