



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL REVISION PETITION NO. 100360 OF 2023

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

BETWEEN:

SRI PARAMAGOU DA VEERANAGOU DA TEMBADAMANI,
AGE: 57 YEARS, OCC: TEACHER,
R/O SHIGGAON, TQ: SHIGGAON,
DSIT: HAVERI - 581 205.

...PETITIONER

(BY SRI. V.M.BANAKAR, ADVOCATE)

AND:

STATE OF KARNATAKA,
THROUGH SHIGGAON POLICE
NOW REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT, DHARWAD BENCH,
DHARWAD - 580001.

...RESPONDENT

(BY SMT.KIRTI LATA R. PATIL, HCGP)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 OF CR.P.C. PRAYING TO CALL FOR RECORDS IN CRL.APPEAL NO.137/2018 DATED 20.07.2023 ON THE FILE OF I ADDL. DISTRICT AND SESSIONS JUDGE, HAVERI AND IN C.C.NO.383/2010 DATED 05.09.2018 ON THE FILE OF CIVIL JUDGE AND JMFC, SHIGGAON AND SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 20.07.2023 PASSED BY THE I ADDL. DISTRICT AND SESSIONS JUDGE, HAVERI PASSED IN CRL. APPEAL NO. 137/2018 AND JUDGMENT AND ORDER PASSED BY THE CIVIL JUDGE AND JMFC, SHIGGAON PASSED IN C.C.NO. 383/2010 DATED 05.09.2018, CONVICTED AND SENTENCED FOR THE OFFENCES P/U/SEC. 380 AND 465 OF IPC AND PETITIONER/ACCUSED BE ACQUITTED FOR THE SAID OFFENCES BY ALLOWING THIS CRIMINAL REVISION PETITION, IN THE INTEREST OF JUSTICE.





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)

Heard Sri V.M.Banakar, learned counsel for revision petitioner and Smt.Kirtilata R.Patil, learned High Court Government Pleader for respondent.

2. Accused in C.C.No.383/2010 convicted for the offence under Section 380 and 465 IPC confirmed in Criminal Appeal No.137/2018 is the revision petitioner.

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

3.1 A private complaint under Section 200 Cr.P.C. came to be filed before the J.M.F.C., Shiggaon in P.C.No.6/2008, which was referred to the police and police after thorough investigation, filed the charge sheet against the petitioner for the offence punishable under Section 380, 463, 465 IPC.



3.2 Gist of the charge sheet material would go to show that the petitioner has thieved a cheque leaf and misused the same.

3.3 Presence of the accused was secured before the trial Magistrate and plea of charges were framed.

3.4 Accused pleaded not guilty. Therefore trial was held. In order to bring home the guilt of the accused, prosecution examined ten witnesses as PW1 to PW10 and placed on record nine documents which were exhibited and marked as Exhibits D1 to D9.

3.5 Thereafter, accused's statement as is contemplated under Section 313 Cr.P.C. was recorded, wherein accused denied all the incriminating circumstances and thereafter, examined himself as DW1 and placed on record twelve documents which were marked as Exhibits D1 to D12.

3.6 Thereafter, learned trial Judge heard the arguments of the parties and convicted the accused for the offence under Section 380 and 465 IPC.



3.7 Validity of the said conviction judgment and order of sentence was challenged before the District Court in Criminal Appeal No.137/2018.

4. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and discussed the material evidence on record in detail and re-appreciated the same and also took into consideration the oral testimony of DW1, wherein he has stated that there was a loan transaction in a sum of ₹7,30,000/- and thereafter, upheld the order of conviction noting that expert opinion with regard to the signature is a forged signature, dismissed the appeal of the accused.

5. Being further aggrieved by the same, accused is before this Court in this revision.

6. Sri V.M.Banakar, learned counsel for the petitioner reiterating the grounds urged in the petition, vehemently contended that both the Courts have not properly appreciated the material on record especially failed to consider the defence evidence in proper perspective and based on surmises and



conjectures recorded in order of conviction resulting in miscarriage of justice and sought for allowing the revision petition.

7. Alternatively, Sri V.M.Banakar would contend that in the event this Court upholding the order of conviction, mercy may be shown to the petitioner who is a retired teacher and by setting aside the imprisonment, fine may be enhanced reasonably and sought for allowing the revision.

8. *Per contra*, Smt.Kirtilata R.Patil, learned High Court Government Pleader would support the impugned judgment.

9. She would further contend that material evidence placed on record by the prosecution *vis-à-vis* the defence evidence, the expert opinion with regard to the disputed signature would conclusively establish the offence alleged against the petitioner and recovery of the thieved cheque is sufficient enough to conclude the offence punishable under Section 380 and 465 IPC which requires no interference by this Court that too in the revisional jurisdiction.



10. She would further contend that no lenience can be shown to such people who have misused the cheque and misused the same and showing any lenience would encourage the similarly placed perpetrators of the crime and thus sought for dismissal of the revision petition in toto.

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

12. On such perusal of the material available on record, it is crystal clear that both the Courts have taken into consideration the material evidence placed on record in proper perspective.

13. It is the contention of the accused that complainant is a businessman having business in iron and cement and he had borrowed sum of ₹7,30,000/- and when accused has approached the complainant to repay the amount, he postponed the payment of the same and issued a cheque. Thereafter, the same was presented for collection which was dishonored and accused filed a cheque bounce case in C.C.No.451/2016.



14. As a retaliation to said action, a false complaint came to be filed against the petitioner herein and therefore, the entire allegations levelled against the accused is incorrect.

15. However, such a defence was not probalised by placing material evidence on record. Expert opinion received during the investigation is placed on record and learned trial Judge did take into consideration the expert opinion and noting the fact that cross-examination of the expert did not yield any positive result about forging of the signature in the disputed cheque convicted the accused.

16. These aspects of the matter would make it clear that when accused has taken a defence that it was tendered towards the repayment of the loan and failed in prosecuting the complainant for the offence punishable under Section 138 of the Negotiable Instruments Act, the allegations levelled against the accused that he thieved the cheque and misused the same has been established by the prosecution by placing appropriate material evidence on record.



17. Taking note of these aspects of the matter, order of the conviction is just and proper and requires no interference in the revisional jurisdiction.

18. Having said so, it is noted that accused is a retired teacher and there is no other criminal antecedent. In other words, accused is a first time offender. If it is so, he was entitled for the benefit of probation before the learned trial Magistrate itself.

19. Learned trial Magistrate has recorded reason that if the petitioner is granted the benefit of probation, it would send a wrong signal to the society.

20. Admittedly, the lis is between two private parties. Therefore, the learned trial Magistrate ought to have taken into consideration the beneficial piece of legislation under the provision of Offender's Act, learned Judge in the First Appellate Court did not raise a point as to the adequacy of the sentence in the appeal.

21. Therefore, there is miscarriage of justice in the First Appellate Court in not considering the said aspect of the matter,



which requires interference in the revisional jurisdiction as there is error of jurisdictional power on the part of the First Appellate Court.

22. Accordingly, this Court is of the considered opinion that while maintaining conviction order, directing the revision petitioner to undergo simple imprisonment for the day and to pay enhanced fine of ₹25,000/- which can be paid as compensation to the complainant would meet the ends of justice.

23. Hence, following:

ORDER

- i. Criminal Revision Petition is allowed in part.
- ii. While maintaining the conviction of the accused for the offence punishable under Section 380 and 465 IPC, the imprisonment ordered by the learned trial Magistrate confirmed by the First Appellate Court of two years is hereby modified as under:
 - a. Petitioner shall undergo simple imprisonment for the day till the raising of the Court.
 - b. Petitioner shall pay enhanced fine amount of ₹25,000/- on or before 25.02.2026.



- c. On receipt of the enhanced fine amount, same shall be paid as compensation to PW1 under due identification.
- iii. Office is directed to return the trial Court records with copy of this judgment forthwith for issue of modified conviction warrant.

Sd/-
(V.SRISHANANDA)
JUDGE

CLK
CT:CMU
LIST NO.: 1 SL NO.: 31