



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. 100149 OF 2021

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

BETWEEN:

GOPALKRISHNA S/O. YAMANAPPA HOSAMANI
AGE. 48 YEARS, OCC. CONTRACTOR,
R/O. KARIYAMMAKALLU BADAVANE,
GADAG, TQ AND DIST. GADAG-582101.

...PETITIONER

(BY SRI. VIJAYKUMAR HIREMATH, ADVOCATE FOR SRI. SRINIVAS B. NAIK, ADVOCATE)

AND:

PRAKASH S/O. SHYAMSUNDAR HATTIKAL
AGE. 55 YEARS, OCC. BUSINESS,
R/O. PALA-BADAMI ROAD,
BETAGERI GADAG-582101.

...RESPONDENT

(BY SRI. C.S. SHETTAR, ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED U/S 397 R/W 401 OF CR.P.C., SEEKING TO CALL FOR RECORDS AND ALLOW THIS REVISION PETITION AND SET ASIDE THE JUDGMENT AND ORDER DATED 19/09/2019 PASSED IN CRIMINAL APPEAL NO.36/2016 ON THE FILE OF PRL. DISTRICT AND SESSIONS JUDGE, GADAG AND SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATED 24/05/2016 PASSED IN CC NO.240/2015 ON THE FILE OF I ADDL. CIVIL JUDGE AND JMFC-I COURT, GADAG AND THEREBY ACQUIT THE PETITIONER / ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 138 OF NI ACT, IN THE INTEREST OF JUSTICE AND EQUITY.

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





ORAL ORDER

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

Heard Sri.Vijay Kumar Hiremath, learned counsel appearing on behalf of Sri.Srinivas B. Naik, learned counsel for the petitioner and Sri.C.S.Shettar, learned counsel for the respondent.

2. Accused has suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act in CC No.240/2015 dated 24.05.2016 on the file of I Additional Civil Judge and JMFC I, Gadag which was confirmed by the First Appellate Court in Crl.A.No.36/2016 dated 19.09.2019 on the file of Principal District and Sessions Judge, Gadag is the revision petitioner.

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

3.1. In respect of the sale transaction, accused issued a cheque bearing No.144196 drawn on Axis Bank, Gadag on 04.12.2014 towards repayment of the advance sale consideration as the sale did not materialize.



3.2. The said cheque on presentation, got dishonored and statutory notice was not complied but an untenable reply came to be issued. Therefore, complainant sought for action.

4. Learned Trial Magistrate after completing necessary formalities, recorded the evidence of the complainant and noted that there was no rebuttal evidence placed on record and convicted the accused and sentenced as under:

"The accused is convicted under Section 255(2) of Cr.P.C. for the offence punishable under Section 138 of the Negotiable Instruments Act.

Accused is sentenced to pay a fine of Rs.5,10,000/- and two months time is granted to pay fine amount of Rs.5,10,000/- and in default undergo simple imprisonment for 6 months for the offence punishable under Section 138 of the Negotiable Instruments Act.

If fine amount of Rs.5,10,000/- deposited out of which an amount of Rs.10,000/- is ordered to be treated as fine, it shall be deposit in the Court within 7 days and the remaining amount of Rs.5,00,000/- is ordered to be paid to the complainant forthwith as compensation."

5. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Crl.A.No.36/2016.



6. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material evidence on record, dismissed the appeal filed by the accused.

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

8. Learned counsel for the petitioner reiterating the grounds urged in the revision petition would contend that both the Courts have not properly appreciated the material evidence placed on record and sought for allowing the revision petition.

9. None appears on behalf of the respondent.

10. Having heard the parties in detail, this Court perused the material on record meticulously.

11. On perusal of the material on record, it is noted that the dishonoured cheque belongs to the accused and signature found therein is that of the accused.

12. According to the complainant, cheque was issued by the accused towards repayment of the advance sale consideration.



13. Taking note of the fact that initial burden has been discharged by the complainant and in the absence of any rebuttal evidence, convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act is just and proper.

14. However, imposition of fine amount of Rs.10,000/- towards defraying expenses of the State cannot be countenanced in law in view of the fact that *lis* is privy to the parties and no State machinery is involved.

15. 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.5,10,000/- is reduced to sum of Rs.5,00,000/-.



- iii. Entire amount of Rs.5,00,000/- is ordered to be paid as compensation to the complainant under due identification.
- iv. Sum of Rs.10,000/- 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