



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 27TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
CRIMINAL PETITION NO.105055 OF 2025
(482 OF Cr.PC/528 OF BNSS)

BETWEEN:

ANIL S/O. SUBRAYA PRABHU,
AGE: 44 YEARS,
OCC: OWNER BP LIFT ENTERPRISES,
ADDRESS - M/S. BP LIFT ENTERPRISES NO.22,
3RD FLOOR, 'D' BLOCK, SHINDE COMPLEX,
NEELJAN ROAD, HUBBALLI-580029,
TALUKA: HUBBALLI, DIST. DHARWAD.

...PETITIONER

(BY SRI SHRIDHAR PRABHU, ADVOCATE)

AND:

PRASHANT S/O. NARAYANA BADKAR,
AGE: 58 YEARS, OCC: CHARTERED ACCOUNTANT,
ADDRESS-YELLAPUR ROAD, MUNDAGODA,
TALUKA: MUNDAGODA (UK)-581349.

...RESPONDENT

(BY SRI NEELENDRA D. GUNDE AND
SRI HANUMESHA M. DESAI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S.528 OF BHARATIYA NAGARIK SURAKSHA SANHITA, 2023, PRAYING TO QUASH THE PROCEEDINGS IN PRIVATE COMPLAINT IN PCR 63/2024 FILED BY THE RESPONDENT/COMPLAINANT AND IN C.C.NO.136/2024 PENDING ON THE FILE IN THE COURT OF CIVIL JUDGE AND JMFC AT MUNDGOD FOR THE OFFENCE PUNISHABLE U/S.138 OF NEGOTIABLE INSTRUMENT ACT.

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



CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL ORDER

This petition is filed by accused under Section 528 of BNSS,
seeking for following relief;

*"WHEREFORE, the petitioner most respectfully prays
that this Hon'ble Court may be pleased to:*

*A) Quash the proceedings in private complaint in
PCR 63/2024 fled by the
respondent/Complainant and in CC
No.136/2024 pending on the file in the court
of Civil Judge and JMFC at Mundgod for the
offences punishable U/S 138 of Negotiable
instrument NI Act.*

*B) Pass such other order or direction that this
Hon'ble Court deems fit in the interest of
justice and equity".*

2. The respondent/complainant has filed a
complaint under Section 200 of Cr.P.C. against the
petitioner/accused for the offence punishable under Section
138 of the Negotiable Instruments Act¹. After recording the

¹ Hereinafter referred to as "N.I.Act"



sworn statement, the learned Magistrate has taken cognizance of the offence and proceeded with the case.

3. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material on record.

4. Learned counsel for the petitioner/accused submitted that, as per Section 138(b) of the N.I. Act, notice ought to have been issued within 30 days from the date of receipt of information from the Bank. However, in the present case, the legal notice has been issued beyond the prescribed period of 30 days. Therefore, there is non-compliance with Section 138(b) of the N.I. Act. He further argued, with reference to the sworn statement of the complainant, that the complainant received information on 08.04.2024, whereas the legal notice was issued on 09.05.2024. Thus, the notice was issued on the 31st day, resulting in non-compliance with Section 138(b) of the N.I. Act. Hence, the complaint is not maintainable. It is



contended that once the complainant received information on 08.04.2024, the legal notice ought to have been issued within 30 days therefrom. Admittedly the legal notice is issued on 09.05.2024. Therefore, submitted this mandatory compliance is not complied and prays to quash the proceedings.

5. On the other hand, learned counsel for the respondent/complainant submitted that though the Bank initially provided information regarding dishonour of the cheque on 08.04.2024, the memo was vague and did not disclose the specific reason for dishonour. Upon the request made by the complainant, the Bank subsequently issued a clarification stating that the cheque was dishonoured due to "funds insufficient" on 22.04.2024. It is further submitted that the legal notice was issued on 09.05.2024, which is within 30 days from the date of receipt of specific information from the Bank. Therefore, there is due



compliance with Section 138(b) of the N.I. Act, and prays for dismissal of the petition.

6. Upon considering the rival contentions on 05.04.2024 the complainant presented the cheque to the Banker of the accused and the Banker of the accused at Hubballi issued memo stating as "Please contact Drawer Drawee Bank" and accordingly the complainant approached Banker at Sirsi and on 08.04.2024 information given "as per the memo enclosed". Once again the complainant asked for specific reasons why the cheque is dishonoured for which the banker has given endorsement on 22.04.2024 as "funds insufficient".

7. Upon considering the rival contentions, it is seen that on 05.04.2024, the complainant presented the cheque to the banker of the accused. The banker at Hubballi issued a memo stating "Please contact Drawer/Drawee Bank." Accordingly, the complainant approached the banker at Sirsi, and on 08.04.2024 information was given "as per the



memo enclosed.” Subsequently, upon seeking clarification regarding the specific reason for dishonour, the banker issued an endorsement on 22.04.2024 stating “funds insufficient.”

8. Upon considering the sworn statement, it is evident that although information was furnished on 08.04.2024, the specific reason for dishonour was not disclosed at that time. The reason “funds insufficient” was communicated only on 22.04.2024. Therefore, from the evidence, particularly the sworn statement, it is clear that the complainant received complete information regarding dishonour of the cheque only on 22.04.2024 and thereafter issued the legal notice on 09.05.2024.

9. Hence, for the purpose of limitation under Section 138(b) of the N.I. Act, the relevant date shall be 22.04.2024. Although the complainant was earlier informed about dishonour of cheque on 08.04.2024, the reason for



dishonour was not specified. The specific reason, namely "funds insufficient," was communicated only on 22.04.2024.

10. Therefore, the date on which specific information regarding dishonour of cheque is received by the complainant must be considered for the purpose of Section 138(b) of the N.I. Act. In the present case, such date is 22.04.2024 and it is specifically stated that due to "funds insufficient" in the account of the accused, the cheque is dishonoured; therefore, from the date of specific information given to the complainant that the cheque is returned for the reason of 'funds insufficient', for the purpose of Section 138(b) of NI Act, 1881, in the present case, a specific reason was assigned on 22.04.2024. Therefore, issuance of legal notice on 09.05.2024 is well within the period of thirty days. Hence, complied with the legal compliance of Section 138(b) of NI Act, 1881. Therefore, issuance of notice is within the period of limitation.



11. On the factual matrix, the decisions relied upon by the counsel for the petitioner, are to be distinguishable one; hence, they are not applicable in the present case. Therefore, there is no merit found in the petition to quash the proceedings. Thus, the petition is liable to be dismissed.

12. Accordingly, the petition is ***dismissed***.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE