



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 17469 OF 2025 (482(Cr.PC) /
528(BNSS))

BETWEEN:

MALLESH G M
S/O MALLAIAH G M
AGED ABOUT 53 YEARS
R/AT NO. 33,
AMRUTHANAGARA MAIN ROAD,
PRIMARY HEALTH CENTRE,
KONANKUNTE, BANGALORE SOUTH,
BANGALORE- 560 062.

...PETITIONER

(BY SRI. LAKSHMIKANTH K., ADVOCATE)

AND:

T G RAVI KUMAR
S/O T M GANGAMAYANNA
AGED ABOUT 53 YEARS
R/AT NO. 1252/25,
1ST A MAIN ROAD, M C LAYOUT,
BANGALORE NORTH, VIJAYANAGARA,
BANGALORE- 560 040.

...RESPONDENT

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528
BNNS) PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED
17.11.2025 DISMISSING THE COMPLAINT FOR DEFAULT/NON

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka



PROSECUTION AND FOR NOT TAKING STEPS IN C.C.NO.8177/2018 ARISING OUT OF PCR NO.4129/2018 ON THE FILE OF XVI ADDL.C.M.M BENGALURU., AND ETC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

The petitioner has preferred this petition against the order dated 17.11.2025 passed in C.C.No.8177/2018 by the XVI Additional Chief Metropolitan Magistrate at Bangalore.

2. The brief facts leading to this petition are that the complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881. After taking cognizance, the case was registered in C.C.No.8177/2018 and a summons was issued to the accused. Despite service of summons, the accused did not appear before the Trial Court. Hence, the Trial Court has issued non-bailable warrant against the accused. The non-bailable



warrant was not executed despite being issued several times. On 17.11.2025, the Trial Court dismissed the complaint for default and for not taking proper steps. Being aggrieved by this order, the petitioner has preferred this petition.

3. The Trial Court, on 17.11.2025, has passed the order, which reads as under:

"Advocate for complainant absent.

Complainant also absent.

Warrant not returned though it is issued by hand to complainant to get it executed through police. Today also steps not taken by the counsel. Hence, as it is old case, adjournment cannot be granted. Case is dismissed for default for not taking proper steps."

4. A plain reading of this order itself clearly goes to show that though the NBW was issued by the Trial Court, the same was not returned. When the NBW was not returned, it is the duty of the Court to ensure whether the NBW is executed or not. The Trial Court has not called for the report from the concerned police as to the execution of



the NBW and passed the impugned order, which is illegal and not sustainable under law. Accordingly, by exercising the powers under Section 528 of BNSS 2023, I proceed to pass the following:

ORDER

- i. The criminal petition is allowed.
- ii. The impugned order passed in C.C.No.8177/2018 by the XVI Additional Chief Metropolitan Magistrate at Bangalore, is set aside;
- iii. C.C.No.8177/2018 is restored;
- iv. The Trial Court is directed to secure the accused by issuing NBW through concerned police and thereafter, shall proceed with the case in accordance with law;
- v. The registry is directed to send the copy of this order to the Trial Court;



- vi. The complainant shall appear before the Trial Court on 28.01.2026, without seeking any further notice.

Sd/-
(G BASAVARAJA)
JUDGE