



CNR: KAHC010020942026

NC: 2026:KHC:54212
CRL.RP No. 85 of 2026
C/W CRL.RP No. 80 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 85 OF 2026

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

C/W

CRIMINAL REVISION PETITION NO. 80 OF 2026

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

IN CRL.RP No. 85/2026

BETWEEN:

1. SRI M VENKATESHWARALU
S/O LATE M VENKATESAM
AGED ABOUT 48 YEARS,
R/AT NO. 27, 8TH MAIN ROAD,
VINAYAKANAGAR, IAF POST, YELAHANKA,
BANGALORE 560063

...PETITIONER

(BY SRI.CHANDRASHEKARA,
SRI.C.G.GOPALASWAMY, ADVOCATE)

ADVOCATE FOR

AND:

1. SMT B G MEENAKSHI
W/O VENKATACHALAPATHI,
SINCE DECEASED HER LRS.,
SRI N VENKATACHALAPATHI,
S/O LATE NARAYANAPPA,
AGED ABOUT 70 YEARS,
RESIDING AT NO. 3, SAPTAGIRI,

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8TH CROSS, J K MAIN ROAD,
NEAR GOVERNMENT PRIMARY SCHOOL,
MALLESHPALYA NEW THIPPASANDRA POST,
BANGALORE-560075

...RESPONDENT

(BY SRI. M SREENIVASA.,ADVOCATE)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET-ASIDE THE ORDER PASSED BY THE HONBLE LXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL, BENGALURU IN CR.A.NO.25282/2024 DATED 03-11-2025 CONFIRMING THE ORDER AND SENTENCE PASSED BY THE HONBLE XXXIII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BANGALORE IN C.C.NO.54891/2018 DATED 03-07-2024.

IN CRL.RP NO. 80/2026

BETWEEN:

1. SRI M VENKATESHWARALU
S/O LATE. M. VENKATESAM,
AGED ABOUT 53 YEARS,
R/AT NO.27, 8TH MAIN ROAD, VINAYAKA NAGAR,
IAF POST, YELAHANKA, BANGALORE-560 063.

...PETITIONER

(BY SRI.CHANDRASHEKARA, ADVOCATE FOR
SRI.C.G.GOPALASWAMY, ADVOCATE)

AND:

1. SMT B G MEENAKSHI
W/O VENKATACHALAPATHI,
SINCE DECEASED HER LRS.
SRI.N.VENKATACHALAPATHI,
S/O LATE NARAYANAPPA,

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AGED ABOUT 70 YEARS,
RESIDING AT NO.3, 'SAPTAGIRI'.
8TH CROSS, J.K.MAIN ROAD,
NEAR GOVERNMENT PRIMARY SCHOOL,
MALLESH PALYA, NEW THIPPASANDRA POST,
BANGALORE-560075.

...RESPONDENT

(BY SRI. M SREENIVASA.,ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401(FILED U/S.438 R/W SEC.442 BNSS) CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE ORDER PASSED BY THE HONBLE LXXII ADDL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL, BENGALURU IN CRL.A.NO.25281/2024 DATED 03.11.2025 CONFIRMING THE ORDER AND SENTENCE PASSED BY THE HONBLE XXXIII ACMM AT BENGALURU IN C.C.NO.54890/2018 DATED 03.07.2024.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

These are the revision petitions filed under Section 397(1) r/w Section 401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the judgment of conviction and order of sentence passed in C.C.Nos.54891/2018 and 54890/2018 dated 03.07.2024 by the XXXIII Addl. Chief Judicial Magistrate, Mayo Hall

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Unit, Bengaluru and confirmed in Criminal Appeal Nos.25282/2024 and 25281/2024 dated 03.11.2025 by the Court of the LXXII Addl. City Civil & Sessions Judge, Mayo Hall, Bengaluru (CCH-73).

2. Parties would be referred with their ranks, as they were before the trial Court for the sake of convenience and clarity.

3. The case of the complainant in nutshell in these two cases is that, the complainant is the co-owner of agricultural land bearing Survey No.38 measuring 3 acres 17 guntas situated at Nellukunte Village, Jala Hobli, Bengaluru North Taluk. She has filed the suit for partition in O.S.No.242/2007 against her brothers, which was pending on the file of Senior Civil Judge, Devanahalli and also against the subsequent purchasers i.e., M. Chandrakala and others. The accused being the builder and developer in that locality has approached the complainant in third week of November-2017 and



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expressed his intention to purchase the definite allotted share in those lands. After negotiation, the accused agreed to purchase the definite allotted share of complainant for a sum of Rs.20,00,000/- with a view to clear liabilities, he has issued the two post dated cheques bearing Nos.000205 and 000207 both drawn on 30.12.2017 and 20.03.2018 respectively for a sum of Rs.10,00,000/- each.

4. When those cheques were presented for encashment, they were dishonored with endorsement 'Funds insufficient' and as per request of the accused, she has again presented those cheques on 23.03.2018 for payment in Vijaya Bank HAL, III Stage Branch, Bengaluru, but even then they were dishonored with shara 'Funds insufficient' on 26.03.2018; she received the said intimation on 28.03.2018; then she has issued the legal notice dated 03.04.2018 to the residential address of the accused. He has given evasive reply dated 09.04.2018

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but not paid the amount mentioned in the cheque. Hence, two complaints were presented before the trial Court under Section 200 of the Cr.P.C.

5. After recording sworn statement of the complainant, the trial Court has taken cognizance of the offence under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act') in both the cases and issued summons to the accused.

6. After his appearance, the accused pleaded not guilty of the offence and claimed trial. After conclusion of the trial and recording statement under Section 313 of Cr.P.C., and after leading evidence by the accused; the trial Court came to the conclusion that the accused has committed the offence punishable under Section 138 of N.I. Act and sentenced to pay fine of Rs.15,50,000/- (Rupees Fifteen Lakhs Fifty thousand only) each in both the cases in default to undergo simple imprisonment for 6 months; out of fine amount, the it was directed to pay



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Rs.15,40,000/- to the complainant as compensation and remaining Rs.10,000/- is defrayed to the State. Aggrieved by the judgment of conviction and order of sentence, the accused has preferred Crl.A.Nos.25282/2024 and 25281/2024.

7. After hearing both sides, the appellate Court dismissed both the appeals with costs by confirming the judgments of conviction and order of sentence.

8. Aggrieved by the said judgments, the revision petitioner is before this Court.

9. Heard arguments of both sides.

10. The learned counsel-Sri Chandrasekhar for Sri C.G. Gopalaswamy for the revision petitioner would submit that the transaction between the complainant and the accused is not at all the transaction as noted in the complaint. Initially, the brothers of the complainant had sold 3 acres 17 guntas to Smt. Aluvelamma and others in the year

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2004-05 and then the son of the complainant intended to purchase the said property. But in the meanwhile, in 2007, the complainant had filed O.S. No.242/2007 against her brothers and the purchasers- Smt. Aluvelamma and others and thus, the complainant's son could not purchase the property from the vendors. Hence, negotiation had taken place. At that time, the complainant had received Rs.16,00,000/- towards her share and executed the confirmation deed as per Ex.D.1 and the release deed as per Ex.D.2. In Ex.D.1, the complainant agreed to withdraw the suit. But immediately she did not withdraw the suit and she withdrew it only on 26.09.2022. At the time of execution of this confirmation deed and release deed, the complainant had received a cheque bearing No.000073 drawn on the HDFC Bank, Vinayaka Nagar Branch, Defense Colony, Yelahanka for a sum of Rs.16,00,000/-. The said cheque was issued by the present accused, which was handed over to the complainant by Smt. Aluvelamma and others. At that time, the complainant agreed to

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return the subject cheques of Rs.10,00,000/- each. But she failed to return them. On the other hand, she presented them in the year 2017 and filed the complaint after issuing the legal notice and then filed the case in the year 2018. In the release deed, the complainant has retained 11 guntas. She agreed to sell the said 11 guntas for a sum of Rs.18,00,000/- and because of that the cheques issued by the accused to the complainant for a sum of Rs.20,00,000/- were continued to be retained by the complainant. Even though initially, the complainant agreed to receive Rs.18,00,000/-, she has not agreed for it. Hence, the DD taken for a sum of Rs.18,00,000/- in the name of the complainant was cancelled by the accused. The said Rs.18,00,000/- DD is not at all pertaining to the subject cheques. In the cross-examination, the complainant contended that the subject cheques were issued by the accused at the time of execution of the confirmation deed. The said deed was dated 11.11.2016; whereas, in the complaint, she narrated that the subject

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cheques were issued in November-2017. Thus, the presumption in favour of the complainant was rebutted by the accused. Her contention in the complaint and in her cross-examination entirely differs. The accused need not establish his contention beyond reasonable doubt. He has to establish his case on the principle of preponderance of probabilities. Hence, the complainant failed to establish that the subject cheques were issued by the accused for a consideration or towards discharge of the debt or liability either whole or in part. There is no debt or liability between the complainant and the accused at any point of time. When the presumption is rebutted by the accused, the Trial Court and the appellate Court ought to have acquitted the accused. But they did not do so. Hence, there is gross erroneous appreciation of the evidence by the trial Court and the appellate Court. Hence, his revision petitions are maintainable.

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11. The learned counsel for the revision petitioner would further submit that in the sale deed executed in the name of his son by Smt. Aluvelamma and others, the sale consideration amount was shown as more than Rs.1 Crore. In that sale deed, how the amount was paid is explained; cheque No.000073 is mentioned in the confirmation deed as per Ex.D.1. Thus, the Rs.16,00,000/- cheque was paid by the accused to the complainant through his vendors. He has produced the said document in the appeal. But it was not considered by the learned appellate Court. Hence, there is an erroneous finding. Hence, he prayed for allowing the revision petition.

12. The learned counsel for the respondent Sri M. Srinivasa would submit that, there is presumption in favour of the complainant that the subject cheques were issued by the accused for consideration and the date mentioned in the cheque is the date of issuance of the cheque. Further, there is presumption under Section 139

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of the N.I. Act that there exists legally recoverable debt; the cheques were issued towards discharge of the debt or liability either in whole or in part. The accused has not rebutted the said presumptions. There is concurrent finding of the trial Court, confirmed by the appellate Court, that the accused has issued these two subject cheques to the complainant for the amount due to her. This is the land transaction between the complainant and the accused through his son. The complainant has examined P.W.2, the Bank Manager, to prove that, during the pendency of this proceeding before the trial Court, the accused has drawn a DD for a sum of Rs.18,00,000/- in the name of the complainant towards repayment of the present cheque amount as per the settlement between the parties. However, he cancelled the said DD. This itself substantiates that the present transaction is different from the transaction of Rs.16,00,000/- mentioned in the confirmation deed and also in the release deed. The accused is not at all a party either to the confirmation

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deed or the release deed. The sale deed produced in this case is between the accused and Smt. Aluvelamma and others. The complainant is not a party to the said transaction and hence, at this stage, the revision petitioner cannot be permitted to produce the said sale deed to say that Rs.16,00,000/- mentioned in Ex.D.1 was paid by the accused.

13. Having heard arguments of both sides, verifying the revision petition papers, the trial Court and the appellate Court records, the point that arises for consideration is:

"Whether the revision petitioners establish perversity or grossly erroneousness in the judgment of the trial court and appellate court or the judgment of the trial court and appellate court is glaringly unreasonable or wholly unreliable or untenable and the judgment of the trial court and appellate court considered immaterial or irrelevant material or no material or non-consideration of any relevant material or judicial discretion has been exercised arbitrarily or capriciously ?"



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14. The finding of this Court on above point is in **Affirmative** for the following:

REASONS

15. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah in Criminal Appeal No.3654/2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** reported in **2026 SCC OnLine SC 1485**. In the aforesaid judgment, the Hon'ble Apex Court at paragraph Nos.7.1. to 7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

"7.1 This Court, in the State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659 observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two

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courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgement and orders of the trial and appellate courts.

7.2 Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of record. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452, while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:

"5.... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to

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the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappraise the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappraising the oral evidence...."

7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

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ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

16. Thus, only if the judgment of the trial Court confirmed by appellate Court is *perverse* or grossly erroneous, or grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

17. The alleged offence in this case is the offence under Section 138 of NI Act; to attract the offence under Section 138 of NI Act, the complainant has to satisfy the following ingredients:

(i) that there is legally enforceable debt;

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(ii) that the cheque was drawn from the account of bank for the discharge in whole or in part of any debt or other liability;

(iii) that the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(iv) that cheque so issued has been returned due to insufficiency of funds;

(v) the payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing to the drawer of the cheque, within 15 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

(vi) the drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice.

18. If the aforementioned ingredients are satisfied, then there shall be a presumption under section 139 of the N.I. Act. Always, the cheque is a bill of exchange and thus

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there shall be a presumption under Section 118 of the NI Act. There is also statutory presumption under Section 139 of N.I. Act that there exists legally recoverable debt and the cheque is issued for recovery of legally recoverable debt either wholly or in part. But the presumptions available under Section 118 and 139 of the N.I. Act are rebuttable presumptions.

19. With this background, the facts of the present case are to be analysed and to verify whether the trial Court and the appellate Court have not examined the records produced by either party or erroneously appreciated the evidence.

20. The complainant has only stated in her complaint that, the accused has issued the two cheques in respect of purchase of the share of complainant in Survey No.38 measuring 03 acres 17 guntas. However, the accused has purchased only 2 acres out of this extent.



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21. Before analyzing the facts alleged in the complaint, the incident that has taken place between the parties is to be looked into.

22. Survey No.38 measuring 03 acres 17 guntas was the ancestral property of the complainant and her brothers. It is not in dispute that the brothers of complainant have sold the said property including 07 guntas Kharab land to Smt. Aluvelamma and three others under the registered sale deed dated 23.04.2004 through document No.1519/2004-05. After such sale, the complainant has filed OS No.242 by 2007 seeking partition in respect of several properties including said 03 acres 17 guntas and also arrayed said Aluvelamma and others as defendants. The accused through his son intends to purchase the said property and thus negotiated with Aluvelamma and others and at that time, came to know about pendency of the said suit. Hence, he directly approached the complainant through mediators-Moorthy

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and Munianjinappa. The complainant agreed to execute the documents to ratify the sale in favour of Aluvelamma and others by her brothers and agreed to receive Rs.20,00,000/-. The contention of the accused is that on 11.11.2016, the complainant has executed the confirmation deed in favour of Aluvelamma and others, wherein she confirms receipt of Rs.16,00,000/- which was through the cheque belonged to the accused. On the same day, the complainant has also executed the release deed wherein she has retained 11 guntas of her share and released only in respect of 2 acres of land.

23. It is the contention of the accused that as the complainant has retained 11 guntas, accused agreed to receive Rs.16,00,000/- instead of Rs.20,00,000/-. About 1-½ years after execution of the said confirmation deed, she has presented the subject cheques through her bankers and they were dishonoured and legal notice dated 26.03.2018 was issued; the accused has given reply to the legal notice issued on behalf of the complainant wherein



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he narrated in detail the above said facts. Even then the complainant initiated criminal proceedings. During pendency of the criminal case, the complainant came forward to sell her 11 guntas property to the accused for a sum of Rs.18,00,000/- and in this regard, the accused has taken DD in the name of the complainant for the aforesaid amount. But afterwards the complainant withdrew her assurance and she has not come forward to sell the property to the accused. Hence, he cancelled the said DD. However, this fact was misread by the trial Court and appellate Court and the accused was convicted.

24. On perusal of the submission of both sides and verification of the records, it is noticed that the confirmation deed as per Ex.D.1 and release deed Ex.D.2 were executed by the complainant in favour of Aluvelamma and others and not in favour of the accused or to his son. In the cross-examination, the complainant admits that she has executed the confirmation deed

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wherein she has consented for the sale of aforesaid properties and received Rs.16,00,000/-. But, according to her the total consent amount was Rs.36,00,000/-, out of which Rs.20,00,000/-, the subject cheques of these two cases and Rs.16,00,000/- under Ex.D1. But there is no such averment either in the confirmation deed or in release deed or in the complaint. For the first time, complainant has stated so in her cross- examination. She has specifically deposed that she has not sold the 11 guntas to the accused. In the confirmation deed, complainant agreed to withdraw OS No.242/2007 but immediately she has not withdrawn it. But it was withdrawn subsequently i.e., on 26.09.2022.

25. In the meanwhile, the complainant has filed OS No.451/2020 seeking declaration that the alleged confirmation deed and release deed are null and void. However, she has withdrawn said suit on 26.02.2021.



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26. These facts are not in much dispute.

27. As discussed above, there is presumption under Section 118 and 139 of the NI Act in favour of the complainant that the cheques were issued for a consideration and they are dated as the date mentioned in the cheques and the cheques were issued towards discharge of the whole or partial debt or liability.

28. These are rebuttable presumptions. The cross-examination of the complainant establishes that these two cheques were issued to her prior to 11.11.2016 but they were presented in the year 2018; however, they are post-dated cheques is not in dispute. After completion of the evidence of the complainant, the accused also let-in his evidence on 08.03.2021 and his evidence was closed finally on 06.06.2022. On 06.06.2022, it is suggested to the accused that he has drawn DD in favour of the complainant for a sum of Rs.18,00,000/- dated 29.08.2018 towards settlement amount, which is denied

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by him. Afterwards, the complainant filed application and recalled herself and examined herself on 10.03.2023 and she has examined the Manager of the Bank on 04.11.2022. On 04.11.2022, the Deputy Manager of the concerned bank has produced letter of the bank as per Ex.P.10, certified photocopy of DD as per Ex.P.11. His evidence establishes that the accused has taken DD No.004580 in favour of complainant by name B.G.Meenakshi (the complainant) and later on as per his specific request, the said DD was cancelled. Ex.P.10 and P.11 clearly establishes that during pendency of the criminal proceedings, the accused has taken the DD for a sum of Rs.18,00,000/- on 29.08.2019 and got it cancelled on 18.02.2020. This fact is suppressed by the accused in his evidence. On the other hand, he denied the suggestion that he has drawn said DD in favour of complainant towards settlement amount.

29. The learned counsel for the accused would submit that said DD was taken in respect of sale of 11 guntas of

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land belonged to the complainant and that is not in respect of the present subject transaction. However, nothing prevented him to say so before the trial Court when he was cross-examined on that DD. Furthermore, he has recalled PW.1 and further cross-examined her on these Demand Drafts. Under these circumstances, the presumption available in favour of complainant under Section 139 of NI Act was not at all rebutted by the accused.

30. If at all the transaction between the complainant and the accused in respect of said DD is for transaction of another property measuring 11 guntas; nothing prevented him to submit so and he could have produced the materials before the Court. However, during pendency of the criminal proceedings, those DDs were drawn and cancelled; this shows that the accused owes a sum of Rs.21,00,000/- to the complainant and in respect of settlement between parties, he has taken DD for Rs.18,00,000/-.

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31. When there is concurrent finding of both Courts on this point, in the revision petition, it cannot be interfered with. Hence this court proceeds to pass the following:

ORDER

Both the revision petitions are ***dismissed***.

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K B GEETHA

(GEETHA K.B.)
JUDGE

SSD,RS
List No.: 1 Sl No.: 19