



CNR: KAHC010059512025

NC: 2026:KHC:38048
CRL.RP No. 180 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO. 180 OF 2025

BETWEEN:

1. T. SOMASHEKARA
S/O LATE THAMMAIAH,
AGED ABOUT 55 YEARS,
R/AT. WARD No.1, 14 B ROAD,
SARGUR TOWN, HD KOTE TALUK,
MYSURU DIST-571 114.
AND ALSO R/AT 1559,
TILAK NILAYA, 2ND CROSS,
2ND STAGE, SRIRAMPURA,
MYSURU-15.

...PETITIONER

(BY SRI. MAHADEVA SWAMY P, ADVOCATE)

AND:

1. SRI S HARISH
S/O LATE SHIVAIAH K,
AGED ABOUT 44 YEARS,
R/AT No.1956, BEHIND V V MARKET,
K. R. MOHALLA, MYSURU-570 004.

...RESPONDENT

(BY SRI. OMKAR MUTTAGI,ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C (U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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TO SET ASIDE THE JUDGEMENT PASSED ON 04.11.2024 IN CRL.A.NO.169/2024 ON THE FILE OF THE VI ADDL. DISTRICT AND SPECIAL JUDGE AT MYSURU AND ACQUIT THE APPELLANT/ACCUSED FOR OFFENCE PUNISHABLE UNDER SECTION 138 N.I. ACT AND ALSO JUDGEMENT PASSED ON 01.04.2024 IN C.C.NO.263/2020 ON THE FILE OF V JMFC AT MYSURU.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the counsel for the revision petitioner and the counsel for respondent.

2. This matter is listed for admission.

3. The factual matrix of the case of complainant before the trial Court are that both the complainant and accused known to each other and on the acquaintance, accused approached the complainant to lend loan of Rs.3,00,000/- for his legal necessities. As per the request of the accused, complainant has lent Rs.3,00,000/- to the accused during first week of July 2017 and accused promised to repay the same within 2 months. But accused



failed to repay the same and hence on insistence he has issued the cheque dated 18.09.2017. When the cheque was presented, it was returned with an endorsement 'accounts closed'. Thereafter, the legal notice was issued and reply was not given and even not comply with the demand. Hence, the complaint is filed and cognizance was taken. The accused was secured and he did not plead guilty and claims the trial.

4. In order to prove the case, the complainant examined as P.W.1 and got marked documents Exs.P1 to P7. On the other hand accused examined himself as D.W.1 and also got marked document Exs.D1 and D2. There are two defence which was taken before the trial Court that cheque was misused and in order to substantiate the same nothing is placed on record except examining himself as D.W.1 and however admits the issuance of cheque and the same is taken note of in paragraph No.18 of the trial Court and other defence was



taken that cheque was given to one Sri. S. B.M. Prasanna as a security while he entered into a mortgage deed with him, but accused has failed to prove the same with proper evidence and he was not examined. In order to substantiate that cheque was given to the said S.B.M. Prasanna also, nothing is placed on record. Even when the notice was issued also the same was served and the accused did not give any reply and after that only the defence was taken and the same was taken note of by the trial Court thereby convicting and sentence the accused for the offence punishable under Section 138 of Negotiable Instruments Act, 1881. The said order is challenged by the accused before the appellate Court in Crl.A.No.169/2024. The appellate Court also has reassessed the material available on record and taken note of the suggestion made to P.W.1 in paragraph Nos.28 and 29 and also admitted that accused being the appellant has filed the appeal and he also categorically admits that he is a businessman having a theatre, a bar and



restaurant and also having the lodge and running the same. The said fact is taken note of in paragraph No.21 of the judgment of the trial Court and confirms the order of the trial Court. Being aggrieved by the same, the revision petitioner is before this Court by filing this present revision petition.

5. Having assessed both oral and documentary evidence of both the Courts, it is seen that the very same grounds are urged before this Court that cheque was not given to the complainant and the same is not substantiated before the trial Court but admitted the cheque and apart from that he is a businessman and having theatre and also the bar and restaurant. Further, the accused is not a layman and the same is taken note of by the trial Court as well as the appellate Court and when such reasoning is given by the trial Court and appellate Court and the same do not suffer from any legality and correctness. Even there is no probable defence by the



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accused and there is no any rebuttal evidence before the Court. Hence, no ground is made out to entertain the revision petition. Accordingly, the revision petition is ***dismissed.***

**Sd/-
(H.P.SANDESH)
JUDGE**

SSD
List No.: 1 Sl No.: 35