



CNR: KAHC010091842024

NC: 2026:KHC:49695
CRL.P No. 1654 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 1654 OF 2024

BETWEEN:

SRI. VIRUPAKSHAPPA
S/O YALLAPPA
AGED ABOUT 44 YEARS
PRESIDENT
SAHYDRI SOUHARDA PATTINA
SAHAKARI NIYAMITHA
R/AT Y.T THIPPESWAMY
ADVOCATE HOUSE MAIN ROAD
NEAR KUVEMPU SCHOOL
VALMIKI NAGARA
CHALALKERE TOWN
CHITRADURGA DISTRICT 577 501

PRESENT R/AT
NO 5, 1ST FLOOR
NIRANAJANA DAMA
3RD MAIN ROAD
GNANAGANGA NAGAR
BENGALURU-560 056

...PETITIONER

(BY SRI. TEJAS N, ADVOCATE)

AND:

SRI. JAYAPRAKASH
S/O RAVINDRANATHA
AGED ABOUT 40 YEARS
AGRICULTURIST

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA





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R/AT SANGENAHALLI VILLAGE
SIDDLAIAHNAKOTE POST
HIRIYUR TALUK
CHITRADURGA DISTRICT 577 545

...RESPONDENT

(BY SRI. RAJANNA C, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.541/2019 ON THE FILE OF THE HON'BLE ADDL.CIVIL JUDGE AND J.M.F.C HIRIYUR, CHITRADURGA AS AN ABUSE OF PROCESS OF LAW, WHICH IS ARISING OUT OF PCR NO.34/2018 FOR THE OFFENCE P/U/S 138 OF N.I ACT.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. seeking to quash proceedings against the petitioner/accused No.1 in C.C No.541/2019 (arising out of PCR No.34/2018), pending on the file Additional Civil Judge and JMFC, Hiriya, Chitradurga (for short, 'the learned Magistrate') for the offence punishable under section 138 of Negotiable Instruments Act, 1881 (for short, 'the NI Act').

2. The brief facts of the case are that the respondent lodged a private complaint before the learned Magistrate in PCR



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No.34/2018 against the petitioner and one S. Shankarappa, alleging commission of the offence punishable under Section 138 of the NI Act. It is alleged in the complaint that the petitioner and accused No.2, namely S. Shankarappa, were running a Sahydri Souharda Pattina Sahakari Niyamitha at Valmiki Nagara, Challakere Town, wherein the petitioner was the President and accused No.2 was the Manager.

3. It is further alleged that on 02.10.2016, the petitioner and accused No.2 approached the respondent and sought a hand loan of Rs.6,00,000/-, assuring him that the said amount would be repaid within three months. Believing their assurance, the respondent advanced the said loan amount. However, the accused failed to repay the same. Subsequently, they issued cheque bearing No.448646 dated 25.09.2017 for a sum of Rs.6,00,000/- towards repayment of the said loan. Based on their assurance, the complainant presented the said cheque for encashment, but the same came to be dishonoured with the endorsement 'funds insufficient'. Thereafter, the complainant caused a legal notice to be issued to accused Nos.1 and 2 and, subsequently, filed the private complaint.



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4. The learned Magistrate, upon taking cognizance of the offence punishable under Section 138 of the NI Act, proceeded against the accused. Aggrieved by the said proceedings, the petitioner, who is arrayed as accused No.1, has preferred this petition.

5. Heard the learned counsel for the petitioner. Learned counsel for the respondent remained absent.

6. The sole contention of the learned counsel for the petitioner is that the petitioner, being the President of the aforesaid Co-operative Society, had issued the alleged cheque on behalf of the said Society. However, the complainant has not arrayed the Co-operative Society as an accused in the complaint. Hence, in the absence of the Society being arraigned as an accused, the complaint against the petitioner is not maintainable, in view of the catena of judgments rendered by the Hon'ble Apex Court and this Court. Accordingly, he prays to allow the petition.



CNR: KAHC010091842024

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CRL.P No. 1654 of 2024

7. I have given my anxious consideration to the submission made by the learned counsel for the petitioner so also perused the entire materials on record.

8. On careful examination of the cheque in question, i.e., Ex.P1, it is evident that the said cheque was drawn on the account of the aforesaid Co-operative Society and was issued on behalf of the said Society by accused No.1-petitioner and accused No.2, who were the President and Manager of the Society respectively. However, on perusal of the private complaint, it is evident that the said Co-operative Society has not been arraigned as an accused.

9. In such circumstances, the Hon'ble Apex Court, in the case of **ANEETA HADA V. GODFATHER TRAVELS AND TOURS PRIVATE LIMITED**, reported in **(2012) 5 SCC 661**, and subsequently in **HIMANSHU V. B. SHIVAMURTHY AND ANOTHER**, reported in **(2019) 3 SCC 797**, has held that in the absence of the principal offender being arraigned as an accused, the person sought to be vicariously liable cannot be proceeded against for the acts attributable to the principal. Applying the said principles to the facts of the instant case, the



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CRL.P No. 1654 of 2024

petitioner cannot be held vicariously liable for the alleged offence in the absence of the Co-operative Society being arraigned as an accused. Therefore, continuation of the proceedings against the petitioner-accused No.1 would not be permissible in law. Accordingly, I proceed to pass the following:

ORDER

i. The petition is ***allowed***.

ii. The proceedings against the petitioner/accused No.1 in C.C No.541/2019 (arising out of PC No.34/2018) for the offence punishable under section 138 of Negotiable Instruments Act, 1881, presently pending on the file Additional Civil Judge and JMFC, Hiriya, Chitradurga is hereby quashed.

**SD/-
(RAJESH RAI K)
JUDGE**

CR
List No.: 1 Sl No.: 17