



CNR: KAHC010094782023

NC: 2026:KHC:49722
WP No. 4361 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 4361 OF 2023 (GM-RES)

BETWEEN:

1. SRI. BHIMRAJ KEER,
S/O. PANNA LAL KEER,
AGED ABOUT 32 YEARS,
PROP: JAIDEVI DOSA,
R/AT: NO.59,
SARVODAYA NAGAR SOCIETY,
UDHNA, SURAT CITY,
SURAT, GUJARAT - 394210.

...PETITIONER

(BY SMT. DEEPA V., ADVOCATE)

AND:

1. SRI. JANARDHANA RAI,
S/O. VENKAPPA RAI @ MANKU RAI.
AGED ABOUT 47 YEARS,
R/AT: KODENKERI,
KEDAMBABY VILLAGE,
PUTTUR VILLAGE,
D.K. DISTRICT - 574210.

...RESPONDENT

(BY SRI. ANIKET, ADVOCATE FOR
SRI. SACHIN B.S., ADVOCATE)



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by R
MANJUNATHA
Location: HIGH
COURT OF
KARNATAKA



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THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C. PRAYING TO SET ASIDE THE ORDER DTD. 20.10.2022 IN CC NO.612/2022 ARISING OUT OF PCR NO.223/2022, PASSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC, PUTTUR, D.K, THEREBY TAKING COGNIZANCE OF THE OFFENCES PUNISHABLE UNDER SECTION 138 OF N.I ACT, VIDE ANNEX-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING - B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Smt. Deepa V., learned counsel for the petitioner and Sri. Aniketh, learned counsel for Sri. B.S.Sachin, learned counsel for the respondent.

2. Accused in C.C.No.612/2022, who is facing the prosecution under Section 138 of the Negotiable Instruments Act, 1881 ('the Act' for short) has filed the petition under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. with the following prayer:



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*"i. issue a writ of certiorari set aside the order dated 20.10.2022 in CC No.612/2022 arising out of PCR No.223/2022, passed by the Principal Civil Judge and JMFC, Puttur, D.K., thereby taking cognizance of the offences punishable under Section 138 of N.I Act, vide **ANNEXURE:-"A"**, and;*

*ii. issue a writ of certiorari to quash the entire proceeding and Complaint in CC No. 612/2022 arising out of PCR No. 223/2022, for the offence punishable under section 138 of N.I Act, pending on the file of Principal Civil Judge and JMFC, Puttur, D.K., vide **ANNEXURE:-"A" & "B"** and;*

iii. Pass any other order/directions in this case having regard to the facts and circumstances of the case, in the interest of justice and equity."

3. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

(a) Respondent herein has launched a prosecution against the petitioner for the dishonour of a cheque. Admittedly, cheque belongs to the petitioner and the signature found therein is that of the petitioner. The same is dishonoured and there was no compliance to the callings of the notice and therefore, prosecution under Section 138 of the Act is initiated.

(b) The sum and substance of the case of the petitioner is that he had parted away the cheque in question to the vendor as a security in respect of a sale transaction and since



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the sale transaction has concluded, there was no return of the cheque which was given as a security which has been ultimately misused by the present respondent who is a stranger to the petitioner. According to the petitioner, necessary precautions have been taken inasmuch as intimating the banker that the amount covered under the cheque should be stopped for payment and also initiating legal notice to the bank manager in the year 2020.

4. As such, Smt. Deepa, learned counsel for the petitioner would contend that there is no legally recoverable debt at all, as the respondent herein is totally a stranger to the petitioner and there was no transaction and sought for quashing the pending criminal proceedings.

5. *Per contra*, Sri. Aniketh, learned counsel for the respondent would support the order taking cognizance and opposes the writ petition.

6. Having heard the arguments of both sides, this Court perused the material on record meticulously.



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7. On such perusal of the material on record, when once the issuance of the cheque is admitted and signature found therein is that of the petitioner, complainant enjoys the presumption as is found in Sections 118 and 139 of the Act. No doubt that it is a rebuttable presumption. It is for the accused to rebut the same by placing the necessary material evidence on record.

8. View of this Court in this regard is supported by the principles of law enunciated by the Hon'ble Apex Court in the cases of **RAJESH JAIN V. AJAY SINGH**, reported in **(2023) 10 SCC 148** and **SRIPATI SINGH (SINCE DECEASED) THROUGH HIS SON GAURAV SINGH V. STATE OF JHARKHAND AND ANOTHER**, reported in **(2022) 18 SCC 614**.

9. Thus, it is for the petitioner to establish a defence before the Trial Court by placing necessary rebuttal evidence on record.



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10. Reserving the liberty for the petitioner to do so, this Court is of the considered opinion that no grounds are made out to quash the pending proceedings. Hence, the following:

ORDER

The Writ Petition is **dismissed**.

**Sd/-
(V SRISHANANDA)
JUDGE**

SJK
List No.: 1 Sl No.: 74