



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 711 OF 2025 (A)

BETWEEN:

SRI. M. BASAVARAJU
SON OF SRI SHANKARCHAR K V,
AGED ABOUT 38 YEARS
NO.G-11, PRABHAVATHI HEAVEN APARTMENT,
GROUND FLOOR,
SBI LAYOUT, 3RD CROSS,
DC HALLI, BTM 4TH STAGE,
BENGALURU-560 076

...APPELLANT

(BY SRI P.PRASAD, ADVOCATE)

AND:

SRI. NAGARAJ WAMADEV DIXIT
SON OF AGED ABOUT 65 YEARS
NO.1393, 9TH MAIN, 8TH CROSS,
SRINIVASNAGAR,
BANASHAKARI 2ND STAGE,
BENGALURU-560040.

...RESPONDENT

(NOTICE TO RESPONDENT IS DISPENSED WITH)

THIS CRL.A IS FILED UNDER SECTION 378(4) CR.PC
(FILED U/S 419(4) OF BNSS) PRAYING TO SET ASIDE THE
ORDER DATED 18.12.2024 IN C.C.N0.54928/2020 IN THE
COURT OF THE XXXIII ADDL. CMM, MAYO HALL, AT
BENGALURU AND PERMITTING THE APPELLANT TO TENDER TO
TAKE THE STEPS AND CONTEST THE CASE.


Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant/complainant has preferred this appeal against the impugned order passed by the XXXIII Additional Chief Metropolitan Magistrate, Mayohall Unit, Bengaluru (for short "the trial Court"), dated 18.12.2024 as the Trial Court has dismissed the case for default and non-prosecution.

2. The complainant/appellant had filed complaint under Section 138 of Negotiable Instruments Act. Then case was registered in PCR No. 53521/2020. Thereafter, the Trial Court has taken cognizance against the accused and case was registered in C.C.No.54928/2020 and summons was issued to the accused. The summons issued to the accused by RPAD., was returned with shara that the accused left address. Thereafter, the Trial court has passed an order to issue Non Bailable Warrant to the accused on 12.09.2022. The Trial Court has also passed the order for re-issue of Non Bailable Warrant on 29.03.2023. Thereafter, case was adjourned from time to



time and that on 18.12.2024 trial Court has passed the following order:

"Case called out at 11 am. No representation.

Case called out at 1.50 p.m. No representation.

Case called out at 3 pm. No representation.

Case called out at 5.30 pm. No representation.

Upon going through the order sheet it appears that the complainant and his counsel have remained absent since longtime without proper representation. Hence the case is dismissed for default and non prosecution."

3. When the Trial Court has issued Non Bailable Warrant to the accused, it is the duty of the Trial Court to ensure that whether Non Bailable Warrant is executed or not. That procedure is not followed by the learned Magistrate. Hence, the impugned order is not sustainable in law.



4. Accordingly, I proceed to pass the following:

ORDER

- (i) Appeal is ***allowed***.
- (ii) The impugned order passed by the XXXIII ACJM., Bengaluru in C.C.No.54928/2020 dated 18.12.2024 is set aside.
- (iii) C.C.No.54928/2020 shall be restored.
- (iv) The trial Court is directed to issue Non Bailable Warrant to the accused. After appearance of both the parties, the trial Court shall proceed with the case in accordance with law.
- (v) Registry is directed to send the copy of this order to the Trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

MR
List No.: 1 Sl No.: 21