



CNR: KAHC010200472024

NC: 2026:KHC:40429
CRL.RP No. 488 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO. 488 OF 2024

BETWEEN:

P. S MURUGESHKUMAR
S/O LATE SHIVAPPA,
AGED ABOUT 56 YEARS,
R/AT HOSABEEDI,
TALAKAU VILLAGE,
T NARASIPURA TALUK 562159

...PETITIONER

(BY SRI. SREE RAMAREDDY R V, ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

V KRISHNAPPA
SINCE DECEASED BY HIS LRS

1. H R SUJATHA,
W/O LATE V KRISHNAPPA,
AGED ABOUT 62 YEAR,
2. KUM H K GAYATHRI
D/O LATE V KRISHNAPPA,
AGED ABOUT 21 YEAR,

BOTH ARE RESIDING AT
NO. 4, WARD NO. 5,
NEW STREET, TALAKADU,
T NARASIPURA TALUK,



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MYSORE DISTRICT 562159

...RESPONDENTS
(BY SRI. P NATARAJU, ADVOCATE FOR R1 & R2)

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 19.04.2022 PASSED BY THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC COURT AT T. NARASIPURA IN CRIMINAL CASE NO.503/2014 FOR THE OFFENCE P/U/S 138 OF N.I. ACT BY ALLOWING THE PETITION AND ALSO SET ASIDE THE CONFIRMATION OF THE CONVICTION AND SENTENCE ORDER PASSED AGAINST THE PETITIONER / APPELLANT IN CRL.A.NO.156/2022 DATED 05.06.2023 BY THE IIIRD ADDL. DISTRICT AND SESSIONS COURT, 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

1. This revision petition is listed for admission.
2. Heard the counsel appearing for the petitioner and also the counsel appearing for the respondents.
3. The factual matrix of case of complainant before the trial Court is that accused is the owner of Hindustan Petroleum Petrol Bank situated at Talukadu Police Station and known to the complainant and he had borrowed a sum of Rs.6,63,000/-



from the complainant on 15.11.2013 for his legal necessities i.e. to purchase petrol, diesel and to clear hand loans and agreed to repay the same within one month. Towards the repayment of the said loan, the accused had issued two post-dated cheques for Rs.3,00,000/- and for Rs.3,63,000/-. On presentation of the said cheque, it was returned with an endorsement as 'Account closed'. Notice was issued and he did not pay the said amount and when he was secured before the Court, he claims the trial. Complainant examined himself as PW1 and another witness as PW.2 and documents Exhibits P1 to P13 were marked and also examined one witness as PW2. The accused though examined himself as DW1 before the trial Court, not produced any document. The trial court having taken note of the defence which was taken, admitted the issuance of cheques Exhibit P1 and Exhibit P2. But defence was taken that the cheques were issued to one Rangappa about four years back. But he repaid the amount to the said person and not retrieved the cheques Exhibit P1 and Exhibit P2 and further deposed that despite notice issued to return the said cheques from the said Rangappa, he failed to do so. But there is no such



document forthcoming in the record that he has issued the notice claiming the cheques from the said Rangappa and the same is also taken note of when the evidence was adduced before the Court and also trial Court comes to the conclusion in paragraph No.16 that he has not examined any of the witnesses in support of his defence and also not clarified how the cheques gone to the hands of complainant and considering the material on record convicted and sentenced and the appellate Court also on re-appreciation of evidence and taken note of the material available on record, particularly DW1 in his cross examination also admits the address mentioned in the complaint and also in the notice and not disputed the address and also he admits the cheques Exhibit P1 and Exhibit P2 and though he claims that he had given the notice to return the cheques and the same is not produced before the Court and the same is taken note of in paragraph No.18 and on re-appreciation of evidence, confirmed the judgment of the trial Court.

4. Now the main contention of the counsel appearing before the petitioner before this Court is that both the Courts have



committed an error in not accepting the case of accused and though specific defence was taken that he had not borrowed the amount from the complainant and the complainant is stranger to him and transaction was taken place between one Mr. Rangappa and he repaid that amount. But he did not return the cheques and the same are misused and the same is not considered.

5. Having considered the reasoning given by the trial Court and also the Appellate Court comes to the conclusion that though such defence was taken and the same is not substantiated and counsel appearing for the respondents also submits that when such defence was taken, the burden lies on the accused to prove the same and the same is not proved and also having considered the material on record there is no any rebuttal evidence to accept the defence which was taken by the accused and when there is no rebuttal evidence and no preponderance of probabilities before the Court, question of consideration of this revision does not arise and only this Court can exercise the revisional jurisdiction, if the trial Court and appellate Court fail to consider the evidence available on record



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and having perused the reasoning, the same is not suffers from its legality and correctness. Only if any miscarriage in considering the evidence, then only this Court can exercise the revisional jurisdiction and the same is not found in the case on hand. Hence no ground is made out to entertain the revision petition and hence, revision petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

BS
List No.: 1 Sl No.: 31