



CNR: KAHC010224672024

NC: 2026:KHC:50620
CRL.P No. 4696 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 4696 OF 2024

BETWEEN:

SMT. SUJATHA. B. K.
W/O KRISHNEGOWDA B.A
AGED ABOUT 40 YEARS,
R/AT NO. 13, 4TH MAIN ROAD,
8TH 'A' CROSS, PRASHANTHANAGAR,
BANGALORE NORTH,
BASAVESHWARANAGAR,
BANGALORE - 560 079.

...PETITIONER

(BY SRI. ANAND R.V, ADVOCATE)

AND:

SUBBARAYAPPA. M. V.
AGED ABOUT 60 YEARS,
S/O VENKATARAYAPPA,
NO. 175, S.B STORES,
DR. B.R AMBEDKAR ROAD,
BEHIND GOVERNMENT SCHOOL,
BABUSAPALYA,
KALYAN NAGAR POST,
BENGALURU - 560 043.

...RESPONDENT

(BY SRI. P.M. GOPI, ADVOCATE FOR
SRI. P.M.SIDDAMALLAPPA, ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO SET
ASIDE THE ORDER DATED 14.03.2024, PASSED IN

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA





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C.C.NO.52775/2022, ON THE FILE OF XXXIV ACMM, BENGALURU, FOR THE OFFENCE P/U/S 138 OF N.I. ACT AND ALLOW THE APPLICATION FILED BY THE PETITIONER U/S 203 OF THE CR.P.C.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

The petitioner/accused has preferred this petition under Section 482 of Cr.P.C. to set-aside the order dated 14.03.2024 passed in C.C.No.52775/2022, pending on the file of XXXIV Addl. Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru, against the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, (for short, 'N.I. Act'), whereby the learned Magistrate rejected the application filed by the petitioner under Section 203 of Cr.P.C.

2. The brief facts of the case are, the respondent/complainant filed a private complaint against the petitioner under Section 200 of Cr.P.C. for the offence punishable under Section 138 of N.I. Act, for dishonor of cheque issued by the petitioner for a sum of Rs.10,00,000/-. At the time of filing the complaint, the respondent, inadvertently



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placed Ex.P1-cheque issued by one Ramaswamy instead of placing the cheque issued by the petitioner. Thereafter, the sworn statement of the respondent was recorded by the learned Magistrate and the learned Magistrate took cognizance of the offence on 12.02.2021. Subsequently, it came to the knowledge of the respondent that he has placed wrong cheque in the private complaint. As such, he filed a memo to permit him to interchange the cheque. The said memo was allowed by the learned Magistrate on 06.07.2023.

3. Nevertheless, the petitioner/accused also filed an application under Section 203 of Cr.P.C. for dismissal of the complaint on the ground that the cheque in question placed by the respondent was issued by some other party and not by her. However, the learned Magistrate rejected the said application filed by the petitioner. Hence this petition.

4. Heard the learned counsel for the respective parties and perused the documents placed on record.

5. As could be gathered from records, the complainant/respondent filed two complaints on the same day



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i.e., on 12.02.2021 against two different accused persons. While filing the private complaint against the petitioner, inadvertently, the respondent has placed the cheque issued by the other accused instead of placing the cheque issued by the petitioner. However, the learned Magistrate proceeded with recording the sworn statement of the respondent. The said sworn statement of the respondent depicts that he has stated the correct cheque number and the amount, which was issued by the petitioner. However, the learned Magistrate took cognizance by placing reliance on the sworn statement and the cheque placed by the respondent i.e., the cheque issued by Ramaswamy. In such circumstances, the cognizance order passed by the learned Magistrate cannot be sustained. In that view of the matter, I proceed to pass the following:

ORDER

- i. The petition is ***allowed***.
- ii. The cognizance order dated 14.03.2024 passed in C.C.No.52775/2022, by the file of XXXIV Addl. Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru, against the petitioner is quashed. Consequently, the



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application filed by the petitioner/accused under Section 203 of Cr.P.C is allowed.

- iii. Liberty is reserved to the complainant to rectify the mistake by placing the correct cheque in the complaint by recording his fresh sworn statement.
- iv. It is made clear that the proceedings shall continue from the stage of sworn statement of the respondent.

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

HKV
List No.: 1 Sl No.: 24