



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF JUNE, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
CRIMINAL PETITION NO. 3556 OF 2019

BETWEEN:

YELAHANKA MERCHANTS FINANCE CO.,
BY PASS, B B ROAD,
YELAHANKA,
BANGALORE-560 064,
REP BY ITS MANAGER,
AND G P A HOLDER,
SMT ANITHA,
W/O NARENDRAKUMAR,
AGED ABOUT 43 YEARS.

...PETITIONER

(BY SRI M.G.KESHAV MURTHY, ADVOCATE FOR
SRI M SUBRAMANI, ADVOCATE)

AND:

SRI R SURESH
S/O RAMAKRISHNAPPA,
AGED ABOUT 43 YEARS,
NO.112, 4TH MAIN,
4TH CROSS, BAHUBALINAGAR,
JALAHALLI, BANGALORE - 560 013.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO
QUASH THE ORDER DATED 25.01.2019 PASSED BY THE
HONBLE VII ADDITIONAL JUDGE AND XXXII ADDL.C.M.M.,
BENGALURU IN C.C.NO.3682/2013 AND ALLOW THE PETITION



AND REMAND BACK THE MATTER BY RESTORING THE CASE AND BY PROVIDING AN OPPORTUNITY TO THE COMPLAINANT AND TO PROCEED WITH THE MATTER.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 25.01.2019 passed by VII Additional Judge and XXXII Additional Chief Metropolitan Magistrate, Bengaluru, in CC.no.3682/2013, this petition is filed.

2. Sri M.G. Keshav Murthy, learned counsel appearing for Sri M. Subramani, Advocate for petitioner submitted that alleging commission of offence punishable under Section 138 of Negotiable Instruments Act, 1881 ('**NI Act**'), petitioner had filed private complaint in PCR no.18012/2012 under Section 200 of Code of Criminal Procedure, 1973 ('**CrPC**'), registered as CC.no.3682/2013 and presently pending on file of SCCH-3, Bangalore vide notification dated 28.12.2015. It was submitted that summons issued to respondent returned as not claimed. Therefore, trial Court ordered issuance of non-bailable warrant



by hand. On ground that petitioner had not evinced interest to have non-bailable warrant executed, trial Court dismissed complaint for non-prosecution. Aggrieved thereby, present petition is filed.

3. It was submitted, impugned order was passed without sufficient opportunity to petitioner, even when petitioner was sincerely pursuing matter and that no notice was issued to petitioner/complainant prior to passing of impugned order and therefore same was required to be interfered with. Learned counsel for petitioner undertakes before this Court that in case of opportunity is granted, complaint would be pursued diligently.

4. Respondent is served and unrepresented.

5. Perusal of impugned order reveals that private complaint filed by petitioner alleging offence punishable under Section 138 of NI Act was dismissed for non-prosecution. Though it is contended that sufficient opportunity was not provided, perusal of order sheet copy produced along with petition reveals that on 08.02.2018, trial Court had ordered non-bailable warrant against accused by hand. On 03.05.2018



it was re-issued and on both occasion, warrant was received by advocate for complainant. Thereafter matter was adjourned on 27.06.2018, 26.07.2018, 25.08.2018, 10.10.2018, 31.10.2018, 16.11.2018, 05.12.2018, 13.12.2018 and 05.01.2019 before passing impugned order on 25.01.2019 for want of execution of warrant. Thus sufficient opportunity was provided.

6. However, submission that prior to dismissal of complaint for non-prosecution, notice ought to have been issued to complainant as well as on ground thatailable warrant ought to be issued to Police by Court instead of dismissing complaint for non-prosecution requires consideration.

7. Interestingly, respondent is served before this Court. This would indicate that service of notice or warrant on respondent ought not to have caused difficulty. Under above circumstances, it is found appropriate to set-aside impugned order and provide opportunity, but on terms. Hence, following:

ORDER

- i. Petition is allowed by imposing cost of Rs.5,000/- payable to Advocates' Welfare



Fund, Bangalore within four weeks from today by petitioner.

- ii. Impugned order dated 25.01.2019 passed by VII Additional Judge and XXXII Additional Chief Metropolitan Magistrate, Bengaluru, in CC.no.3682/2013 is set-aside.
- iii. Matter is remitted back to trial Court to proceed from stage it was on date of impugned order, by issuing fresh non-bailable warrant through Police and thereafter proceed in accordance with law.
- iv. To enable early conclusion, petitioner is directed to appear before trial Court on 20.07.2026.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 18