



CNR: KAHC010260742023

NC: 2026:KHC:36731
CRL.RP No. 692 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO.692 OF 2023

BETWEEN:

1. P. GOVINDARAJU,
S/O PUTTAKENCHIAIAH,
AGED ABOUT 49 YEARS,
R/AT MANNE VILLAGE AND POST,
THYAMAGONDLU HOBLI,
NELAMANGALA TALUK,
BENGALURU RURAL DISTRICT-562132.

...PETITIONER

(BY SRI. GOVARDHANA V.S., ADVOCATE)

AND:

1. SRI SHIVA KUMAR M,
S/O ADVEESHAIAH,
AGED ABOUT 50 YEARS,
R/AT MANNE VILLAGE AND POST,
THYAMAGONDLU HOBLI,
NELAMANGALA TALUK,
BENGALURU RURAL DISTRICT-562132.

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED)

THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 OF
CR.P.C PRAYING TO SET ASIDE THE COMMON JUDGMENT
PASSED IN CRL.A.NO.279/2020 C/w CRL.RP.NO.175/2020
BEFORE THE LXVI ADDITIONAL CITY CIVIL AND SESSIONS

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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JUDGE, BENGALURU (CCH-67), DATED 05.04.2023 AND ACQUIT THE PETITIONER BY ALLOWING THIS CRL.RP WITH COSTS THROUGHOUT, IN C.C.NO.958/2019 JUDGEMENT DATED 10.01.2020 BEFORE THE COURT OF THE SMALL CAUSE JUDGE (SCCH-6) 4TH ADDL. AND ACMM AT BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the revision petitioner. This Court issued notice against the respondent and the respondent is served and represented.

2. The factual matrix of the case of the complainant before the Trial Court is that the accused borrowed a sum of Rs.5,00,000/- on 20.03.2018 from the complainant and agreed to pay within nine months and on the same day issued post-dated cheque with an assurance to repay the same. When the said cheque was presented, the same was returned with an endorsement "funds insufficient". Hence, the complainant issued legal notice on 16.01.2019 demanding him to pay the cheque amount. The said notice was served on the accused on 09.01.2019 and the accused replied on 24.01.2019, but he



failed to comply with the demand and hence, complaint was filed and cognizance was taken. The accused was secured and he did not plead guilty and claimed trial. Hence, the complainant examined himself as P.W.1 and got marked the documents at Exs.P.1 to 11. The accused was subjected to 313 statement and he denied the incriminating material. The accused examined himself as D.W.1 and his wife as D.W.2, but no documents are marked. Only oral evidence are placed on record.

3. The Trial Court having taken note of defence of the accused with regard to financial capacity of the complainant is concerned, discussed the same in paragraph No.16 relying upon the bank statement of State Bank of India Ex.P.12, which evidences the withdrawal of the amount on 07.03.2018 and 14.03.2018 for having made the payment. With regard to the defence that there was no need of borrowing loan from the complainant as the accused had sold the property, the Trial Court taken note that in order to substantiate the same that he had sold the property, nothing is placed on record. It is the case of the accused that when the accused's wife had borrowed



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an amount of Rs.1,00,000/- from the wife of the complainant, cheque was given and the same was repaid. For having repaid the amount also, no documents are produced and even for the transaction between the complainant's wife and the accused's wife also no material is placed on record and the same is taken note of in paragraph No.18. Having taken note of the evidence of the complainant and the documentary evidence, as well as the oral evidence of D.W.1 and D.W.2, the Trial Court convicted and sentenced the accused.

4. The said order was challenged before the Appellate Court in Crl.A.No.279/2020 and the complainant also filed Crl.R.P.No.175/2020 questioning the inadequate sentence. On re-appreciation of evidence, the Appellate Court dismissed the appeal and allowed the revision petition and enhanced the fine amount from Rs.5,00,000/- to Rs.5,50,000/-.

5. The same is challenged before this Court by filing this revision petition.

6. The learned counsel for the revision petitioner would submit that the petitioner's wife and the respondent's



wife had made loan transaction of Rs.1,00,000/- and for that loan, the petitioner's wife had taken the blank signed cheque of the petitioner to give surety for that amount and repaid the same. But the same is not taken note of by the Trial Court. It is also contended that the petitioner's wife had given interest at the rate of 4% every month of Rs.4,000/- to the respondent's wife upto 2018 for more than Rs.1,00,000/- and the cheque was misused and the said material was not considered by the Trial Court and the Appellate Court and there is a contradictory statement given by the respondent during the cross-examination and hence, both the Courts have committed an error.

7. Having heard the learned counsel for the revision petitioner and considering the material on record, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court and the Appellate Court committed an error in convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and whether it requires interference of this Court?



(ii) What order?

Point No.(i):

8. Having considered the grounds which have been urged before this Court and also the reasoning of the Trial Court, three defences were raised before the Trial Court by the accused. With regard to financial capacity of the complainant, document Ex.P.12 was marked for having withdrawn the amount on 07.03.2018 as well as on 14.03.2018 and the Trial Court comes to the conclusion that the amount was withdrawn from the bank and paid to the accused. The second defence is with regard to there was no need of borrowing the money from the complainant, since the accused had sold the property. But no document is placed before the Court that the property was sold by the accused. The third defence is in respect of misusing of the cheque in respect of transaction of Rs.1,00,000/- between the wife of the complainant and the wife of the accused and to substantiate the same, nothing is placed on record and for having repaid the amount also, nothing is placed on record. The Trial Court taken note of the grounds which have been urged, in paragraph Nos.16, 17, 18 and 19 and the



Appellate Court on re-appreciation, considered the material on record having considered the defence which was taken. The Appellate Court in paragraph No.26 taken note of the suggestion which was made to P.W.1. In the cross-examination of D.W.1, it is elicited that no documents are obtained from the complainant's wife for having borrowed Rs.1,00,000/- and the same is taken note of in paragraph No.24. With regard to the enhancement of fine in the Appellate Court also, reasons are given. The issuance of cheque was admitted and though defence of transaction between the petitioner's wife and the complainant's wife was mooted, the same is not substantiated by placing any material on record. With regard to the financial capacity is concerned also, taken note of Ex.P.12. When such reasons are given by the Trial Court and the Appellate Court, I do not find any error on the part of the Trial Court and the Appellate Court in considering the material on record and hence, no ground is made out to exercise the revisional jurisdiction and the order not suffers from its legality and correctness. Accordingly, I answer point No.(i) in the negative.



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Point No.(ii):

9. In view of the discussions made above, I pass the following:

ORDER

The criminal revision petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

MD
List No.: 1 Sl No.: 27