



CNR: KAHC010323342024

NC: 2026:KHC:50621
CRL.P No. 5715 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. 5715 OF 2024

BETWEEN:

S.B AJJIAH
S/O BASAPPA
AGED ABOUT 53 YEARS
R/AT SRI GONI BASAVESHWARAPPA NILAYA
VIDYANAGARA, BEHIND BAMS SAW MILL
MEDEHALLY ROAD, CHITRADURGA-577 501

...PETITIONER

(BY SRI. VIJAYAKUMAR S.C, ADVOCATE)

AND:

S MANJUNATH
S/O SHIVARUDRAIAH
AGED ABOUT 39 YEARS
#48, MATHIKUNTE VILLAGE
DODDA MUDDUWADI DHAKLE-562 117
KOTTAGALA POST, HOROHALLI HOBLI
KANAKAPURA TALUK, RAMANAGARA DISTRICT

...RESPONDENT

(BY SRI. GADEKAR NAGARAJ BABU AND
SRI. MANJU BYRAL R, ADVOCATES)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO
MODIFY THE ORDER PASSED BY THE LEARNED PRINCIPAL
CIVIL JUDGE AND JMFC CHITRADURGA IN C.C.NO.95/2021
DATED 07.02.2023 ON THE APPLICATION FILED BY THE
COMPLAINANT U/S.340(1) OF CRPC AS PER ANNEXURES F BY

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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DIRECTING C.M.O TO REGISTER THE COMPLIANT AGAINST THE RESPONDENT.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C challenging the order dated 07.02.2023 passed in C.C.No.95/2021 by the Prl. Civil Judge and JMFC, Chitradurga, on the application filed under Section 340(1) of Cr.P.C. by the petitioner/complainant in 138 of Negotiable Instruments Act proceedings.

2. The brief facts of the case is that the petitioner/complainant filed a private complaint against the accused under Section 200 of Cr.P.C. read with Section 142 of N.I. Act, alleging that the respondent approached the petitioner-complainant for a hand loan of Rs.36,04,600/- and accordingly, the complainant advanced the hand loan to the accused on several occasions. On 16.04.2019, the accused contacted the complainant and paid Rs.4,600/- through cash and for repayment of the balance amount, the accused issued a



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cheque bearing No.482979 dated 10.02.2020. The said cheque was presented by the petitioner for encashment through his banker and the same was returned with an endorsement "Payment stopped by drawer" dated 24.03.2020. Since the said aspect was intimated to the accused, he gave assurance to the petitioner to present the said cheque on 27.03.2020. On request of the accused, the petitioner presented the said cheque through his banker and the same was returned with an endorsement "Payment stopped by drawer" dated 30.03.2020. As such, on 03.06.2020, the complainant issued a legal notice to the accused. The said notice was duly served to the accused. Despite, the accused neither replied to the notice nor repaid the said amount. As such, the petitioner filed the private complaint under Section 200 of Cr.P.C against the respondent.

3. The learned Magistrate after taking cognizance of the offence, issued summons to the accused and the accused entered his appearance before the Trial Court by filing bail application and surety of one Maregowda. The learned Magistrate accepted the surety of said Maregowda and thereafter, Maregowda filed a memo to withdraw his surety. At



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that time, it was revealed to the complainant that the documents produced along with an affidavit by the surety was fake documents. As such, the complainant filed an application under Section 340(1) of Cr.P.C. to take necessary action against the accused as well as the surety. The learned Magistrate allowed the said application as under:

"ORDER

The application filed by the complainant under Section 340(1) of Cr.P.C. is hereby allowed.

The C.M.O. is directed to file complaint against the surety by name Maregowda s/o late Lingegowda, R/o Matthikunte village, Harohalli Hobli, Kanakapura Taluk, Ramanagara District for the offence punishable under Sections 193 and 194 of IPC along with the surety affidavit of Maregowda and documents filed along with the said affidavit and the application filed by the complainant under Section 340(1) of Cr.P.C., and objections filed by the surety and the documents produced by both the parties and arguments filed by the complainant and certified copy of the order passed by this Court.

Since the case is conducted before this Court, the C.M.O. is directed to file the complaint before II Addl. Civil Judge and JMFC., Chitradurga."



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Aggrieved by the same, the petitioner preferred this petition.

4. Heard the learned counsel for the respective parties.

5. The contention of learned counsel for the petitioner/complainant is that the respondent/accused colluding with Maregowda - surety, fabricated the document and impersonated the actual owner of the property. In such circumstances, the accused also equally held responsible and the learned Magistrate ought to have allowed the application under Section 340(1) of Cr.P.C. against the accused also.

6. The learned counsel for the respondent/accused contended that on perusal of Section 195 of IPC and Section 340(1) of Cr.P.C., it is quite clear that whoever creates and produce the false documents before the Court in a proceedings is only liable for the offence punishable under Section 195 of IPC by following the procedure under Section 340(1) of Cr.P.C. Since the accused has not produced any such document, the accused cannot be held responsible for the act committed by



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the surety. As such, he submits that the Trial Court has rightly dismissed the application and the same does not call for any interference at the hands of this Court.

7. I have given my anxious consideration on the submission and the documents made available before this Court.

8. As could be gathered from records, it is not in dispute that one Maregowda stood as surety to the accused - respondent and filed his surety affidavit and documents. Subsequently, he withdrawn his surety by filing a memo. At that time, it was revealed that he has produced fake documents and sworn false affidavit before the learned Magistrate. Nowhere it is stated that the accused colluding with the surety, produced the false documents in the proceedings. As such the accused cannot be held vicariously liable for the act committed by the surety. In such circumstances, the learned Magistrate has rightly allowed the application and proceeded against the surety. Hence, I find no good ground to interfere with the order



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passed by the learned Magistrate. Accordingly, the petition being devoid of merits, is ***dismissed***.

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

HKV
List No.: 1 Sl No.: 26