



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1161 OF 2025 (A)

BETWEEN:

1. STCL LIMITED
(A GOVT. OF INDIA UNDERTAKING),
NO.7A, STC TRADE CENTER, 3RD FLOOR,
NANDINI LAYOUT, BANGALORE - 560096,
REPRESENTED BY ITS CHIEF MANAGER - FINANCE,
MR. M.S. PRABHU.

...APPELLANT

(BY SRI. VINAY KUTTAPPA K.S., ADVOCATE)

AND:

1. META COPPER AND ALLOYS LTD.,
GANDHI MANSION, 3RD FLOOR,
ABOVE SOUTH AFRICAN CONSULATE,
20, ALTAMOUNT ROAD, GRANT ROAD,
MUMBAI - 400 026.
2. META COPPER AND ALLOYS LTD.
NEAR UPASNAGAR, P.O. ZUARINAGAR
GOA-403726.
3. SRI SUSHIL S. KHAITAN
MANAGING DIRECTOR,
NO.36/37, MITTAL CHAMBERS,
NARIMAN POINT, MUMBAI-400021
ALSO AT NO.14B, STERLING APARTMENT,
7TH FLOOR, 36G, DESHMUKH MARG,
MUMBAI - 400026.
4. SRI P. PARVATHISEM
(DELETED AS PER ORDER DATED 01/04/2017)

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MAHALAKSHMI B
M
Location: HIGH
COURT OF
KARNATAKA





DIRECTOR,
NO. 36/37, MITTAL CHAMBERS, NARIMAN POINT,
MUMBAI -400021.
ALSO AT: NO.301, RAMANEEYAMKALANJALI,
SIDDARTH ARCADE, SAI SANKALPA NAGAR,
NEAR KOUNDINYA CLUB, JEEDIMETLA VILLAGE,
RANGA REDDY DISTRICT,
HYDERABAD-500 055.

5. DR. ANANDA SWAROOP KHANNA
DIRECTOR,
NO. 36/37, MITTAL CHAMBERS, NARIMAN POINT,
MUMBAI - 400021
ALSO AT: NO. 504, GLEN CLASSIC,
HIRANANDANI GARDEN, POWAI,
MUMBAI-400076.

6. MR. DEEPAK MATHUR
ADDITIONAL DIRECTOR,
NO. 36/37, MITTAL CHAMBERS,
NARIMAN POINT, MUMBAI
400021.
ALSO AT: G-306, GIRISIKHARA ENCLAVE,
HILL TOP COLONY, ERRAMANZIL,
HYDERABAD-500082.

...RESPONDENTS

THIS CRL.A IS FILED U/S 378(4) CR.PC (FILED U/S 419(4) OF BNSS) PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 10.02.2025 PASSED IN CC NO.52571/2018 BY XXXIII ADDITIONAL CHIEF MAGISTRATE AT MAYO HALL, BANGALORE, DISMISSED THE CASE BY ACQUITTING THE RESPONDENT FOR NON-PROSECUTION OF THE APPELLANT UNDER SECTION 138 OF N.I. ACT AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA



ORAL JUDGMENT

This appeal is filed by the appellant/complainant against the impugned order dated 10.02.2025 passed in C.C. No.52571/2018 by the XXXIII Additional Chief Judicial Magistrate, Bengaluru.

2. The appellant/complainant had filed a private complaint under Section 200 of Cr.P.C. read with Section 138 of the Negotiable Instruments Act, 1881, against the accused in P.C.R. No.52570/2016. After taking cognizance, the Trial Court has registered the case in C.C.No.52571/2018 and issued summons to the accused. In response to the summons, the accused appeared before the Court and was enlarged on bail. The plea was recorded, and the accused pleaded not guilty and claimed to be tried.

3. To prove the guilt of the accused, the complainant examined PW.1 and PW.2. The Trial Court also recorded the statement of the accused under Section



313 of Cr.P.C. on 15.04.2024. Thereafter, an application was filed to recall PW.2, which was allowed, subject to payment of costs. Thereafter, the case was posted for cross-examination of PW.2. Since PW.2 remained absent on 10.02.2025, the Trial Court passed the following order:

"PW2 absent. C/C absent.

Accused absent. A/C filed EP for A4 and 7.

Perused. Allowed.

The case called out at 11.30am, 12pm, 1pm, 2.45pm, 4pm and 5pm and 5.30pm but the complainant and C/C absent all the time.

This is a matter of 2018 and it appear that the complainant is not interested in prosecuting this case as he remained absent on several occasion. Hence I am of the opinion that case is to be dismissed for non prosecution. Hence the complaint is dismissed for non prosecution."

4. The evidence of PW.1 was recorded and closed. The statement of the accused under Section 313 of Cr.P.C. was also recorded. Only on account of the non-appearance of PW.2, the Trial Court dismissed the case for non-prosecution, which is not sustainable in law.

5. When PW.2 remained absent, the Trial Court ought to have discarded the evidence of PW.2 and proceeded with the matter in accordance with law. Instead, the Trial Court



dismissed the case for non-prosecution, which is not sustainable in law. Hence, I proceed to pass the following:

ORDER

- i. The appeal is ***allowed***.
- ii. The impugned order passed by the XXXIII Additional Chief Judicial Magistrate, Bengaluru dated 10.02.2025 is ***set aside***. C.C. No.52571/2018 shall be restored.
- iii. The complainant/appellant is directed to appear before the Trial Court on **26.03.2026** without awaiting any further notice. Trial Court is directed to provide an opportunity to the complainant to adduce evidence of PW.2 or further evidence if any.
- iv. Upon the appearance of the complainant, the Trial Court is directed to secure the presence of the accused and proceed with the case in accordance with law.

Registry is directed to send the copy of this order to the Trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**