



CNR: KAHC010358252026

NC: 2026:KHC:40558
CRL.RP No. 865 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO.865 OF 2026

BETWEEN:

1. M/S. AFI UNIFORMS,
A PROPRIETORSHIP CONCERN,
HAVING ITS OFFICE
AT NO.764/1, 3RD MAIN ROAD,
3RD CROSS, PRAKASH NAGAR,
BENGALURU-560021,
REPRESENTED BY ITS PROPRIETOR,
MR THAMIMUL ANSARI O.M.

...PETITIONER

(BY SRI. NOORMOHAMMED, ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. SKD EXPORTS,
A PROPRIETORSHIP CONCERN,
NO.3, 11TH CROSS,
PIPELINE ROAD, VIJAYANAGAR,
BENGALURU-560040,
REPRESENTED BY ITS PROPRIETOR
MR. NITHIN B.C.

...RESPONDENT

(BY SRI. A.C.PUTTARAJU, ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 OF
CR.P.C PRAYING TO SET ASIDE THE JUDGMENT DATED
02.05.2026 PASSED BY THE LXVII ADDL. CITY CIVIL AND



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SESSIONS JUDGE, BENGALURU IN CRL.A NO.1599/2024 AND CONSEQUENTLY RESTORE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 01.08.2024 PASSED IN CC NO.1515/2023 BY THE IV ADDL. JUDGE COURT OF SMALL CAUSES AND ADDL. ACMM, BENGALURU.

THIS PETITION COMING ON FOR ADMISSION 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/complainant and the learned counsel for the respondent/accused.

2. This revision petition is filed against the order passed by the First Appellate Court remanding the matter back to the Trial Court.

3. The learned counsel for the revision petitioner brought to the notice of this Court that the First Appellate Court while remanding the matter comes to the conclusion that several opportunity was given to the accused to cross-examine P.W.1. When the case was set down on 05.10.2023, 31.10.2023, 06.12.2023 and 09.01.2024, the accused and his counsel remained absent before the Trial Court. On



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24.01.2024, the P.O. was on leave and the case was adjourned to 31.01.2024. On 31.01.2024, the accused and his counsel remained absent. In spite of granting sufficient opportunity, the accused has not cross-examined P.W.1 and hence, the cross-examination of P.W.1 is taken as nil and posted the case for defence evidence to 09.02.2024. On 09.02.2024, the accused was present and the case was adjourned to 19.02.2024. On 19.02.2024, the accused was present and filed an application under Section 311 of Cr.P.C. to recall P.W.1 for cross-examination and though time was taken to file objections, but ultimately the complainant counsel says that no objection to allow the application and hence, the same was allowed on cost of Rs.200/- and posted the case to 18.05.2024 for cross-examination. On 18.05.2024, both the accused and complainant remained absent and no representation and hence posted the matter to 21.06.2024. On 21.06.2024, the accused and his counsel remained absent and P.W.1 was present. In spite of granting opportunity, the accused has not cross-examined P.W.1 and hence, posted the case for defence evidence on 28.06.2024. On 28.06.2024, 04.07.2024,



10.07.2024 and 11.07.2024, the accused remained absent and even he has not led any defence evidence. Hence, posted the case for arguments on 16.07.2024. On 16.07.2024, 18.07.2024 and 19.07.2024, the accused was absent. Having taken note of these factors into consideration, in paragraph No.12, the First Appellate Court comes to the conclusion that the learned Magistrate has given sufficient opportunities for the appellant/accused to cross-examine the complainant, but for proper appreciation of dispute in hand, this Court is of the considered view that it is just and necessary to remand back the case to the Trial Court for cross-examination of P.W.1/complainant within three hearing dates on payment of cost of Rs.5,000/-.

4. The said reasoning is challenged before this Court contending that when the appeal was filed with delay, the same was allowed on payment of cost of Rs.5,000/- and the same was not paid. The learned counsel contend that the impugned judgment of conviction and sentence was suspended subject to payment of 20% of the fine amount and the same was also not paid and the very reasoning given by the Appellate Court is



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erroneous. Once the Court comes to the conclusion that sufficient opportunity is given, ought not to have remanded the matter.

5. Per contra, the learned counsel for the respondent/accused not disputes the fact that cost of Rs.5,000/- was imposed while condoning the delay and the same was not paid and subsequently 20% of the fine amount was also not deposited. The learned counsel submits that the reasoning given by the First Appellate Court is only to appreciate the evidence to give an opportunity and the matter is posted for cross-examination of P.W.1 tomorrow and hence, the Court has to dismiss the same.

6. Having considered the grounds which have been urged in the revision petition, the case was filed in 2023 and P.W.1 was present before the Court more than a dozen times for cross-examination and the same was not done and both the accused and his counsel were absent. Subsequently when an application was filed, the same was allowed on cost of Rs.200/- and an opportunity was given to cross-examine the witness. Once again the witness was not cross-examined and hence,



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taken as no cross-examination. Even when the case was posted for defence evidence also, the accused and his counsel did not appear before the Court and not led any defence evidence. Even for arguments also sufficient opportunity was given. When such being the case, the Appellate Court taken note of the same in detail in paragraph No.12, but committed an error in remanding the matter that, in order to appreciate the evidence, P.W.1 has to be cross-examined. When sufficient opportunity was given, the same was not utilized by the accused and hence, the question of remanding the matter does not arise. The First Appellate Court committed an error in remanding the matter without application of judicious mind and hence, order of remand requires to be set aside and question of giving an opportunity on the whims and fancies of the respondent/accused is not sustainable in the eye of law and it is nothing but an abuse of process and hence, the order impugned remanding the matter is set aside.

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



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ORDER

- (i) The criminal revision petition is allowed.
- (ii) The impugned order dated 02.05.2026 passed by the First Appellate Court in Crl.A.No.1599/2024 is set aside and the order dated 01.08.2024 passed by the Trial Court in C.C.No.1515/2023 is confirmed, since there is no any cross-examination of P.W.1 and even not led any defence evidence and reasoning was also given by the Trial Court while accepting the case of complainant.

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

MD
List No.: 1 Sl No.: 50