



CNR: KAHC010397362022

NC: 2026:KHC:48809
CRL.RP No. 1135 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 1135 OF 2022

BETWEEN:

SRI. P. SUNIL KUMAR
S/O PUTTALINGAIAH
AGED ABOUT 37 YEARS
R/AT NO. 97, BHEL 2ND STAGE,
NEAR MARAMMA TEMPLE,
PATTANAGERE, RAJA RAJESHWARI NAGAR,
BENGALURU - 560 098.

...PETITIONER

(BY SRI. CHOWDAREDDY T.M, ADVOCATE)

AND:

M/S. MARUTHI MERCHANTS
FIANCE COMAPNY,
REPRESENTED BY ITS PROPRIETOR
B.H. MANJAIAH,
AGED ABOUT 40 YEARS
S/O LATE V. SELAVARAJU
(B.C. RANGAPPA), R/T NO. 451/F,
GANAKSHI COMPLEX, I FLOOR,
43RD MAIN ROAD, IDEAL HOME TOWNSHIP,
R.R. NAGAR, BENGALURU - 560 098.

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO SET ASIDE THE JUDGMENT DATED 13.05.2022
PASSED BY THE LIX ADDL. CITY CIVIL AND SESSIONS JUDGE,

Digitally Signed By:
K B GEETHA

Digitally
signed by
REKHA R
Location:
HIGH
COURT OF
KARNATAKA



CNR: KAHC010397362022

BANGALORE (CCH-60) IN CRL.A.NO.847/2019 AND CONFIRMING THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 01.03.209 IN C.C.NO.33215/2010 ON THE FILE OF THE XLI ACMM, BANGALORE TO BE DISMISSED AS ANNEXURE-B AND THEREBY THE PETITIONER BE ACQUITTED FROM THE CHARGES AND THIS PETITION.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

This revision petition is filed under Section 397 read with Section 401 of Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') by the revision petitioner praying for setting aside the judgment of conviction and order of sentence dated 13.05.2022 passed in Crl.A.No.847/2019 by the LIX Addl. City Civil and Sessions Judge (CCH-60), Bengaluru (in short 'appellate Court') and judgment of conviction and order of sentence dated 01.03.2019 passed in C.C.No.33215/2010 by the Court of XLI Addl. Chief Metropolitan Magistrate, Bangalore City (in short 'trial Court').

2. Parties would be referred with their ranks as they were before the Tribunal for sake of convenience and clarity.

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

3. The case of complainant in nutshell is that, the complainant is running chit financial business. The accused approached in November 2009 for financial assistance. That on 17.11.2009, the complainant has lent a sum of Rs.9,00,000/- (Rupees Nine lakhs only) to the accused for the purpose of his business out of which, an amount of Rs.8,53,200/- (Rupees Eight lakhs fifty three thousand two hundred only) was paid through Cheque No.185987 dated 17.11.2009 drawn on Corporation Bank, Rajarajeshwari Nagar, Bengaluru, to the accused and the remaining amount was deducted towards interest for a period of seven months with interest at the rate of 16% per annum and towards office expenses. The accused agreed to repay the loan amount with interest at 16% per annum. Even after repeated requests and demands by the complainant, the accused has not repaid the loan amount, instead he has issued cheque bearing No.402680 for a sum of Rs.6,90,000/- dated 22.01.2010 drawn on Bank of Maharashtra, Rajarajeshwari Nagar, Bengaluru. When the



CNR: KAHC010397362022

said cheque was presented for encashment through the banker of complainant on 22.01.2010 i.e., Corporation Bank, Rajarajeshwari Nagar, Bangalore, it was returned with an endorsement 'funds insufficient' and dishonoured. The same was intimated to the complainant on 23.01.2010. Then, the complainant issued legal notice dated 18.02.2010 to the accused which was served on 19.02.2010. The accused has not given any reply to the said notice or repaid the loan amount within 15 days. Thereafter, the complainant has filed private complaint on 17.03.2010 under Section 200 of Cr.P.C. which is registered as C.C.No.33215/2010.

4. After service of summons accused appeared before the trial Court; accusation framed against accused read over and explained to him wherein he pleaded not guilty and claimed trial. After completion of the trial, the statement under Section 313 Cr.P.C was recorded wherein accused denied the case of complainant in *toto*; he

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

examined himself as DW1 and got marked exhibits D1 to D3 on his behalf.

5. After hearing the arguments, the trial Court convicted the accused for the offence punishable under Section 138 of N.I. Act and sentenced him to pay a fine of Rs.6,95,000/-; in default, to undergo simple imprisonment for a period of six months out of which Rs.6,94,000/- to be paid as compensation to the complainant and Rs.1,000/- to be appropriated to the State towards prosecution expenses.

6. Aggrieved by said judgment of conviction and order of sentence, the accused preferred an appeal in Crl.A.No.847/2019 before the appellate Court.

7. After hearing the arguments of both sides, the appellate Court dismissed the appeal by confirming the judgment of conviction and order on sentence passed by the trial Court. Aggrieved by the same, the revision petitioner is before this Court in the present petition.



CNR: KAHC010397362022

8. After service of notice, respondent remains absent and unrepresented.

9. Learned counsel for the revision petitioner-Sri Chowdareddy T.M. would submit that the trial Court as well as the appellate Court have not appreciated the documents at Exs.D1 to D3 produced by the revision petitioner in an appropriate manner. He would further submit that there were 4 cases filed by the complainant against father, mother, sister and the accused. The case filed against father was settled between the parties. In the cases filed against the mother and sister of the accused, the Sessions Court has allowed the appeal and acquitted them by setting aside the conviction. There were series of transactions between the complainant and accused and also with other family members of the accused. The father, mother and sister of the accused have lodged a complaint before the Assistant Registrar of Moneylenders and have brought to the notice of the said Assistant Registrar the illegal activities of the complainant. At that

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

time, the Assistant Registrar of Moneylenders has passed the order dated 12.04.2018 directing the father, mother and sister of the complainant to recover the amount due to them from the accused by filing appropriate civil suit in the Civil Court.

10. Ex.D2 is the chit fund receipts issued by the complainant to the accused and Ex.D3 is the calculation sheet made by the accused. According to these documents, complainant is due to the accused to the tune of Rs.7,08,885/-. But the complainant misused the cheque issued by the accused at the time of commencement of transaction and filed the present case which is not maintainable under law.

11. Learned counsel for the revision petitioner would further submit that according to the loan application given by accused to the complainant, the accused has taken loan of Rs.9,00,00/- agreeing to repay the debt in 200 days at Rs.4,500 per day. But the complainant has filed the present case on 23.01.2010, i.e., before

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

NC: 2026:KHC:48809
CRL.RP No. 1135 of 2022

completion of said 200 days. Hence, the complaint is premature one and there is no legally recoverable debt to the complainant as on the date of filing of the complaint. However, these legal aspects were not considered by the trial Court and the appellate Court in an appropriate manner. In the cross-examination, the complainant admitted that he has received a pigmy amount of Rs.2,11,549/- from the accused and it should be returned with an interest. Hence, the amount claimed by the complainant is not a legally recoverable debt. Therefore, he prayed to allow the revision petition.

12. Having heard the arguments of learned counsel for the revision petitioner, perused the revision petition papers and trial court records and appellate Court records, the point that arises for consideration is

"whether the revision petitioner establishes any perversity or gross erroneous finding or glaring unreasonable, wholly unreliable, untenable points in the judgment of the Trial Court as well as the appellate Court?"

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

NC: 2026:KHC:48809
CRL.RP No. 1135 of 2022

13. Finding of this Court is in **Negative** for the following:

REASONS

14. The powers vested with this Court under Section 442 of BNSS, 2023 are very, very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of **Kuntegowda v/s Thurubaiah in Criminal Appeal No. 26,(Arising out of Special Leave Petition (Criminal) No.2247 of.....dated 04.08.2026.**

15. In the aforesaid judgment, the Hon'ble Apex Court at paragraph No.7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

"7.3 The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

unreasonable or wholly unreliable or untenable in law.

ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously".

16. Thus, the jurisdiction of the revision Court is very limited. Only if the Order passed by the Trial Court as well as appellate Court is perverse, erroneous, unreasonable, wholly unreliable, untenable or relevant material facts were not at all considered or the judicial discretion was exercised arbitrarily and capriciously or irrelevant materials are considered by the trial Court as well as the appellate Court; then only the revision petition can be entertained.

17. With this background, the facts of the present case are to be analysed. The complainant has filed the private complaint before the trial Court which is registered as C.C.No.33215/2010. In that complaint, complainant has taken specific contention that the complainant is

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

running chit financial business and the accused approached in November 2009 for financial assistance. That on 17.11.2009, the complainant has lent a sum of Rs.9,00,000/- (Rupees Nine lakhs only) to the accused for the purpose of his business out of which, an amount of Rs.8,53,200/- (Rupees Eight lakhs fifty three thousand two hundred only) was paid through Cheque No.185987 dated 17.11.2009 drawn on Corporation Bank, Rajarajeshwari Nagar, Bengaluru, to the accused and the remaining amount was deducted towards interest for a period of seven months with interest at the rate of 16% per annum and towards office expenses. The accused agreed to repay the loan amount with interest at 16% per annum. Even after repeated requests and demands by the complainant, the accused has not repaid the loan amount. But he has issued cheque bearing No.402680 for a sum of Rs.6,90,000/- dated 22.01.2010 drawn on Bank of Maharashtra, Rajarajeshwari Nagar, Bengaluru. When the said cheque was presented for encashment through the



CNR: KAHC010397362022

banker of complainant on 22.01.2010 i.e., Corporation Bank, Rajarajeshwari Nagar, Bangalore, it was returned with an endorsement 'funds insufficient'. The same was intimated to the complainant on 23.01.2010. Then, the complainant issued legal notice dated 18.02.2010 to the accused, which was served on 19.02.2010. The accused has not given any reply to the said notice or repaid the loan amount within 15 days.

18. It is a fact that the cheque in question is dated 22.01.2010; which was presented to the bank for encashment on the same day and on 23.01.2010, the complainant received endorsement that the cheque was dishonoured as 'funds insufficient'. On 19.02.2010, the complainant has issued legal notice to the accused which is received by the father of the complainant on 19.02.2010. No reply is given to the said notice and within 15 days from the date of receipt of the said legal notice, the amount is not repaid by the accused.



CNR: KAHC010397362022

19. To attract the offence under Section 138 of N.I.Act, the complainant has to establish that cheque is issued by the accused for repayment of loan amount; or for the discharge in full or in part of any debt or other liability and when the cheque is returned by the bank unpaid, then the offence under Section 138 of N.I.Act would be attracted. But the complainant has to establish that the cheque has been presented to the bank within a period of 6 months from the date on which it is drawn or within the period of its validity; the Payee makes a demand for the payment of the said amount of money by giving a notice in writing within 30 days of the receipt of information by him from the bank regarding return of the cheque as unpaid and the drawer of such cheque fails to make payment of the said amount to the payee within 15 days of the receipt of the said notice.

20. As discussed above, in the present case, all the above ingredients are fulfilled; within the validity period of the cheque, it was presented to the bank within 30 days of



CNR: KAHC010397362022

receipt of information by the bank, that cheque was dishonoured; Thereafter, the legal notice was issued to the accused calling upon him to pay the cheque amount within 15 days; but the accused failed to repay the cheque amount within the stipulated time.

21. Learned counsel for the revision petitioner submits that the notice was served upon father of accused and not on the accused. Hence, it was not a due service. However, the said argument is untenable because the father of the accused is the eldest male member of the family and thus, notice was duly served upon the accused when it is received by his father.

22. Learned counsel for revision petitioner would submit that Ex.D2 is the pigmy receipts issued by the complainant are not duly appreciated by the trial Court as well as the appellate Court. On perusal of Ex.D2, it is noticed that there were several transactions between accused and the complainant from 2006 to 2008. According to these documents, Rs.10,00,000/-,

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

Rs.1,86,000/- and Rs.1,39,500/- plus several loan transactions had taken place between the complainant and the accused. The complainant also admitted these facts in his cross-examination. However, the said transactions are of the year 2006 to 2008. Even though, the said transactions are mentioned in Ex.D2 are of the year 2006 to 2008; admittedly, the present loan is sanctioned in the year 2009. The accused is placing reliance on Ex.P8- loan application given by the accused on 17.11.2009. Thus, the earlier loan transaction between accused and the complainant is of no use to the accused to prove that the accused has paid excess amount to the complainant. The loan application is dated 17.11.2009, wherein the accused availed a loan amount of Rs.9,00,000/- for improvement of his business agreeing to repay the same at Rs.4,500/- per day for 200 days.

23. As per Ex.P7 i.e. passbook Rs.8,53,200/- was disbursed to the account of accused on 19.11.2009. That means remaining Rs.47,800/- was retained by the



CNR: KAHC010397362022

complainant. In this case, in the complaint itself, it is stated that the said amount is towards interest for a period of seven months at 16% per annum. The accused agreed to pay the amount with interest at 16%p.a. and agreed to receive Rs.8,53,200/-. But the accused has issued the cheque for a sum of Rs.6,90,000/- and the interest for a period of two months is Rs.24,000/-. This cheque is not for the entire loan amount of Rs.9,00,000/-. But according to the complainant, the amount due as on 22.01.2010 is only Rs.6,90,000/- and not Rs.9,00,000/-. Hence, the complainant claimed only Rs.6,90,000/- from the accused. If accused has plausible defence, then it was his incumbent duty to give reply to the notice, which he has not done.

24. In the cross-examination, the complainant has admitted that Rs.2,11,549/- amount was given by the accused as a pigmy amount from November 2006 to November 2009 and it includes the interest. Primarily, the accused has failed to adduce any documentary evidence



CNR: KAHC010397362022

establishing the specific interest rate at which the complainant allegedly agreed to repay the amount. The said transaction is different from the present transaction because that is from 2006 to 2009. Apart from this, the accused himself has taken a loan of Rs.9,00,000/- on 17.11.2009.

25. Ex.D1 is the letter dated 12.04.2018 given by the Assistant Registrar of Moneylenders to the father, mother and sister of the accused and not to the accused. This document is not at all pertaining to the accused. Hence, the accused cannot place any reliance on Exs.D1. Ex.D3 is the calculation sheet produced by the accused. According to him, he does not know who prepared the said calculation sheet and it was given to him by his father. Thus, this document is not helpful to the accused to prove his contention.

26. Even though the complainant was cross-examined in length, nothing is elicited in cross-examination regarding the present transaction. There will

Digitally Signed By:
K B GEETHA



CNR: KAHC010397362022

be several transactions between the complainant and other family members of the accused. But those transactions are different from the individual transactions between complainant and the accused. Considering these aspects, the accused was rightly convicted by the trial Court, which is confirmed by the appellate Court. When there is concurrent finding by both the Courts, the jurisdiction of this Court is very limited as discussed above. The presumption in favour of the complainant is already substantiated from the documents produced by the complainant and the accused has not rebutted the presumptions in favour of complainant available under Section 118 of the NI Act and 139 of the NI Act which involves presumption in favour of complainant that the cheque is issued for consideration and the date mentioned in the cheque is the date of its issuance; The said cheque is issued towards discharge of legally recoverable debt and liability. These presumptions are rebuttable presumptions, but the accused has not produced any material to rebut



CNR: KAHC010397362022

the presumption available in his favour. The judgments passed by the Sessions Court in respect of the cases filed by mother and sister of the complainant are on different footings, because they were having the order from the Registrar of money lenders to recover the amount due to them in a competent and sufficient way and the said order is not in favour of the accused. Hence, those judgments are not helpful for the accused to prove his contentions.

27. The above discussions reveal that the judgment of conviction and order of sentence passed by the trial Court and the appellate Court are not perverse, not erroneous, not unreasonable, not wholly unreliable and not untenable. Accordingly, this Court passes the following:

ORDER

(i) The Criminal Revision Petition is ***dismissed.***

Digitally Signed By:
K B GEETHA

**(GEETHA K.B.)
JUDGE**