



NC: 2026:KHC:39539
CRL.P No. 7596 of 2019

CNR: KAHC010449202019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO.7596 OF 2019

BETWEEN:

SMT. PRIYA
W/O V S MAYURA, HINDU,
AGED 48 YEARS, PROPRIETOR
SRI SAI SANDESH TRADERS,
APMC YARD, TIPTUR,
R/AT VETERINARY HOSPITAL ROAD,
FORT, TIPTUR - 572 201.
BUSINESS IS SINCE CLOSED.

...PETITIONER

(BY SRI KRISHNA SWAMY S., ADVOCATE)

AND:

SRI C M MALLEGOWDA
S/O PATEL MALLEGOWDA,
HINDU, AGED 78 YEARS,
PROPRIETOR
M/s. SRI ADISHAKTI TRADERS,
TIPTUR - 572 201.
PERMANENT RESIDENT OF
CHAGACHAGERE,
GANDASI HOBLI, ARASIKERE TALUK,
HASSAN DISTRICT - 573 103.
REP BY HIS SPA HOLDER
C.P.SATISH
S/O C.M.MALLEGOWDA,
HINDU, AGED ABOUT 37 YEARS,
RESIDENT OF TIPTUR.

...RESPONDENT

(BY SRI G R SREENIVAS, ADVOCATE)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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THIS CRL.P IS FILED U/S 482 OF CR.P.C. PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.872/2018 ON THE FILE OF SENIOR CIVIL JUDGE AND J.M.F.C., TIPTUR.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging proceedings in CC no.872/2019 on file of Senior Civil Judge and J.M.F.C., Tiptur for offence punishable under Section 138 of Negotiable Instruments Act, 1881 (**NI Act**), this petition is filed.

2. Sri Krishna Swamy S., learned counsel for petitioner (accused) submitted that petition was filed by accused in PCR no.406/2018 filed by respondent (complainant) alleging that on 28.09.2016 accused had borrowed Rs.10,00,000/- as hand loan from complainant and on demand for repayment, issued cheque no.727737 drawn on State Bank of India (**SBI**), BH Road Branch, Tiptur for Rs.10,00,000/- dated 23.03.2018. It was submitted, on noticing cheque, that it was self, complainant had insisted on accused to sign and affix seal on backside of cheque endorsing it in his favour. And accused affixed seal and requested complainant to present cheque



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after two months. But when cheque was presented for collection, it returned dishonoured on 04.07.2018. Thereafter, though complainant got issued statutory notice on 18.07.2018, same had returned with postal endorsement as 'Addressee absent for 7 days' and thus, accused had failed to repay cheque amount and thereby committed offence punishable under Section 138 of NI Act. It was submitted, on said complaint, trial Court had taken cognizance and issued summons. Assailing proceedings, present petition is filed.

3. At outset, it was submitted, very initiation of proceedings would be contrary to law as cheque in question was a self-cheque and even endorsement by Bank dated 04.07.2018 was not on ground of insufficiency of funds, but on ground that a self-cheque could be presented for collection only by drawer. It was submitted, this Court in case of **V Rama Shetty v. N. Sasidaran Nayar** disposed of on 08.06.2006 had held that offence of Section 138 of NI Act would not attract in case of dishonour of self-drawn cheque. It was further submitted that even in Criminal Appeal no.3629/2011 disposed of on 02.06.2017 by Kalaburagi Bench of this Court, order of acquittal from offence punishable under



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Section 138 of NI Act, in case of self-cheque was confirmed. Same would inure to (accused) petitioner herein.

4. It was further submitted, proceedings were initiated on premise that petitioner had failed to repay hand loan of Rs.10,00,000/- borrowed from complainant. It was submitted, as per complainant's version, entire amount of said Rs.10,00,000/- was paid in cash which would be in violation of Section 271 (D) of Income Tax Act, 1961 (**IT Act**) and Hon'ble Supreme Court in case of **Krishna Janardhan Bhat v. Dattatraya G. Hegde**, reported in **2008 (4) SCC 54** had set-aside judgment of conviction and sentence passed on ground of violation of IT Act. Based on same, learned counsel prayed for allowing petition.

5. On other hand, Sri G.R. Sreenivas, learned counsel for respondent (complainant) opposed petition. It was submitted, while drawing cheque, accused had written self on cheque. In private complaint, complainant had specifically stated that accused had endorsed on backside of cheque. Therefore, complainant was holder in due course and entitled to prosecute accused for dishonour of cheque. It was submitted, meaning and purpose of endorsement would be



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matter for trial and would be defence and same cannot be a ground for quashing of proceedings. On said ground prayed for dismissal of petition.

6. Heard learned counsel and perused material on record.

7. This petition is by accused challenging initiation of proceedings for offence punishable under Section 138 of NI Act. Sole ground urged in this fact is initiation of proceedings for offence punishable under Section 138 of NI Act would not be tenable in case of self-drawn cheque. Perusal of certified copy of cheque bearing no.727737 dated 23.03.2018 drawn on **SBI**, does indicate that drawee was 'SELF or BEARER'. Perusal of private complaint, certified copy of which is appended to petition in para-4 specifically states that drawer had endorsed on backside of cheque and handed over same to complainant in which case, complainant would be drawer in due course and would be entitled to maintain a complaint. Meaning and purpose of endorsement would be matter for trial and cannot be examined at this stage.

8. Hon'ble Supreme Court in case of **Sanjabij Tari v. Kishore S. Borcar**, reported in **2025 SCC OnLine SC 2069**



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had clearly held that defence of violation of provisions of IT Act would not be available in proceedings under NI Act. Though in **V. Rama Shetty's** case (*supra*), there is an observation by this Court that provisions of 138 of NI Act would not attract in case of dishonour of a self-cheque, this Court was not considering claim by holder in due course. Likewise decision in Criminal Appeal no.3629/2011 is distinguishable on fact as it was a case of material alteration of instrument. Thus decisions reliance upon by counsel for petitioners would not inure to petitioners. Reserving liberty to urge all contention at appropriate stage, petition stands ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

GRD
CT:HM
List No.: 1 Sl No.: 20