



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1219 OF 2022

BETWEEN:

SMT. PUTTATHAYAMMA
AGED 58 YEARS
W/O LATE VENKATAGIRI
NO. 49, A. NARAYANAPURA
NEAR GOVT. SCHOOL,
DOORVANINAGAR
BENGALURU - 560 016.

...PETITIONER

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by
SHARADAVANI
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Location: High
Court of
Karnataka

(BY SRI. V. LAKSHMAIAH, ADVOCATE)

AND:

SRI. NARESH KUMAR N
AGED 32 YEARS
S/O NAGARJ,
HOUSE NO. 100, SRI. MANJUNATHA NILAYA
R/AT A. NARAYANAPURA
DOORVANINAGAR
BANGALORE - 560 016.



...RESPONDENT

(BY SRI. DEEKSHITH CHANDAN, ADVOCATE FOR
SRI. P.B. RAJU, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO SET ASIDE THE JUDGMENT AND ORDER PASSED
BY THE HONBLE LVII ADDITIONAL CHIEF METROPOLITAN
MAGISTRATE COURT, MAYO HALL UNIT, BENGALURU
CONVICTING THE PETITIONER IN C.C.NO.56105/2014 IN ITS
ORDER DATED 07.04.2017 AND ALSO MAY BE PLEASED TO SET
ASIDE THE JUDGMENT AND ORDER CONFIRMING THE
SENTENCE OF CONVICTION BY THE HONBLE LVII ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE MAYO HALL UNIT,
BENGALURU (CCH-58) DATED 04.02.2019 IN
CRL.A.NO.535/2017 FOR THE OFFENCE P/U/S.138 OF NI ACT
1881 AND THEREBY ORDER TO PAY FINE OF RS.5,55,000/-
WITH DEFAULT CLAUSE.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



ORAL ORDER

Heard Sri. V.Lakshmaiah, learned counsel for Sri. Praveenkumar K.S, learned counsel for the petitioner and Sri.V. Ravi, learned counsel for respondent.

2. Revision petitioner is the accused who suffered an Order of conviction in C.C No.56105/2014 confirmed in Criminal Appeal No.535/2017. Facts for the offence under Section 138 of the Negotiable Instrument Act.

3. Facts in the nutshell which are utmost necessary for disposal of the present petitioner as under:

Respondent/complainant filed a private complaint under Section 200 of Cr.P.C., alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act,1881 with the jurisdictional Magistrate containing that complainant and accused are known to each other and in the month of third week of March 2014, complainant lent the financial assistance in a sum of Rs.5,00,000/-as financial assistance to the accused which was agreed to be repaid within a period of 6



months. There was no repayment and on sufficient persuasion, two cheques bearing No.934478 and 934477 in a sum of Rs.2,50,000/- each drawn on Canara Bank were handed over by the accused to the complainant which were returned with an endorsement 'Funds Insufficient'.

A Legal notice was issued calling upon the accused to make the payment covered under the cheques but there was no compliance nor reply. Therefore, action was sought.

4. Learned Trial Magistrate after completing the necessary formalities, summoned the accused and recorded the plea. Accused pleaded not guilty. Therefore trial was held.

5. In order to prove the case of the complaint, he got examined himself as PW1 and placed on record seven documents which are Exhibited and marked as Exhibit P1 to P7, comprising of dishonour cheque, bank



endorsements. Copy of the legal notice, postal receipt and postal acknowledgement. Detailed cross examination of PW1 did not yield any positive material so as to rebut the presumption available in the complaint under Section 139 of the Negotiable Instruments Act.

6. However to rebut the presumption accused got examined herself as D.W.1 and Smt. M.Jayalakshmi as D.W.2. In the cross examination of DW1, it is elicited that she has taken action against the complainant for having misused the cheque by filing the complaint to the police but she failed to produce the copy of the complaint or any other document in that regard.

7. She also got examined a witness by name Jayalakshmi who deposed that one Manjunath has issued the Exhibit P1 and Exhibit P2 to accused. It is the specific case of the accused that cheques were given to Manjunath, who was the contractor and after construction work was completed, said Manjunath was murdered and



accused being the driver of the said Manjunath, has misused the cheques.

8. To probabalize such a defence, except the oral testimony of DW1 and DW2 there is no other material on record. Pertinently no reply to the legal notice is issued. At least after the accused appeared and had the services of an advocate no action has been taken by the accused against the complainant for alleged misuse of the cheques. Even according to the accused, five cheques were given to Manjunath but Exhibit P1 and Exhibit P2 are the only cheques which the complainant has presented, for collection.

9. Taking note of these aspects of the matter, Learned Trial Magistrate convicted the accused for the offence punishable under Section 138 of the Negotiable Instrument Act, which was upheld by the Learned judge in the First Appellate Court in the Criminal Appeal No.535/2017.



10. Being aggrieved by the same, accused is before this Court in this revision petition.

11. Sri. Lakshmaiah, learned counsel for the revision petitioner reiterating the grounds urged in the petition would vehemently contend that both the Courts have not properly appreciated the material on record in its proper perspective resulting in miscarriage of justice and sought for allowing the revision petition.

12. He would further contend that when there is no legally recoverable debt at all, the question of conviction of the accused for the offence under Section 138 of the Negotiable Instruments Act would not arise.

13. In support of his arguments, he placed reliance on the judgment of the Co-ordinate Bench of this Court in **Criminal Appeal No.939/2010 in Yeshwanth Kumar - vs- Shanth Kumar.N disposed of on 07.08.2019** and so also the judgment of another Co-ordinate Bench in **Criminal Appeal No.860/2017** in the case of **Syed**



**Sulaiman Shahid -vs- N.D.Subramanyam, disposed
of on 28.08.2019.**

14. *Per contra*, counsel for the respondent Sri. Ravi, supports the impugned judgments.

15. Having heard the arguments of both sides, this Court perused the material on record meticulously. On such perusal of the material on record, cheques marked at Exhibit P1 and Exhibit P2 and signature of the accused found therein is not in dispute. With regard to the reaching of Exhibit P1 and Exhibit P2 to the hands of the complainant, accused has set up a theory stating that those cheques along with three more cheques were given to Manjunath, who was the contractor who constructed the house of the accused. It is her specific case that after the construction was completed, even before the blank cheques which are given as security to Manjunath could be returned to the accused, Manjunath was murdered and accused being the driver of said Manjunath, misused Exhibit P1 and Exhibit P2 after death of Manjunath and



accused being the illiterate lady, thus not liable to pay the amount covered under Exhibit P1 and Exhibit P2.

16. To substantiate such a defence, except the oral testimony of DW1 and DW2, there is no other material on record. In her cross examination, DW1 categorically admits that she has approached the police with regard to the alleged misuse of the cheque.

17. To substantiate such a contention complaint given to the police or any other document is placed on record. Insofar as oral testimony of DW2 is concerned, she has not proved the case of the accused to any extent in as much as she deposes before the Court in her examination itself that Manjunath has given Exhibit P1 and Exhibit P2 to accused.

18. It was nobody's case that the Manjunath has given the cheques to accused. If Manjunath has returned the cheques Exhibit P1 and Exhibit P2 to accused, how it



reached the hands of complainant is a question that remains unanswered.

19. Therefore, when the theory of misuse fails, the Trial Magistrate was justified in raising the presumption as is available under Section 139 of the Negotiable Instruments Act and convicting the accused for the offence under Section 138 of the Negotiable Instruments Act is just and proper in view of the authoritative principles of law enunciated by the Hon'ble Apex Court in the case of **Rangappa -vs- Mohan reported in (2010) 11 SCC 441, Rajesh Jain -vs-Ajay Singh reported in (2023) 10 SCC 148, and Sanjabij Tari -vs- Kishore S Borcar and another reported in 2025 SCC Online SC 2069.**

20. Learned Judge in the First Appellate Court rightly re-appreciated the material evidence on record while dismissing the appeal of the accused.

21. Thus, this Court does not find any valid reasons to interfere with the orders of the Trial Magistrate



confirmed by the First Appellate Court with the limited revisional powers.

22. The judgments rendered by the co-ordinate benches referred to *supra* and relied on by the counsel for petitioner has no application to the facts and circumstances of the case and it runs contrary to the principles of law enunciated by the Hon'ble Apex Court in the aforesaid decisions.

Hence, following:-

ORDER

Revision petition is dismissed.

Sd/-
(V SRISHANANDA)
JUDGE

VS
List No.: 2 SI No.: 28