



CNR: KAHC010453472019

NC: 2026:KHC:49016
CRL.P No. 7760 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 7760 OF 2019

BETWEEN:

SMT. NINGAMMA
AGED ABOUT 42 YEARS,
D/O SRI. THIMMAPPA,
RESIDING AT NO.9,
BEHIND THE BEST SCHOOL,
11TH CROSS, 1ST MAIN ROAD,
LAGGERE, BANGALORE - 560058.

ALSO AT:
C/O. SRI. L.H. BASANTH KUMAR,
"BE BEST SCHOOL" BUILDING,
PROPERTY SITE NOS.5 AND 6,
LAGGERE MAIN ROAD, BBMP WARD
NO.69, LAGGERE, BANGALORE - 560 058.

...PETITIONER

(BY SRI. P. USMAN, ADVOCATE)

AND:

SRI. O.R. RANGASHAMAIAH
AGED ABOUT 37 YEARS,
S/O. SRI. RANGEGOWDA,
R/AT NO. 69, 1ST FLOOR,
2ND CROSS, 1ST MAIN ROAD,
1ST BLOCK, 'D' GROUP LAYOUT,
ANDRAHALLI MAIN ROAD,

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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VISHWANEEDAM POST,
BANGALORE - 560 091.

...RESPONDENT

(BY SRI. D. MANMOHAN, ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.P.C. PRAYING TO a.
QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN
C.C.NO.10400/2018 (PCR NO.742/2018) PENDING ON THE
FILE OF C.J.M., BENGALURU RURAL DISTRICT, BENGALURU
INCLUDING THE ORDER DATED 05.12.2018 WITH REGARD TO
REGISTERING THE CASE AND ISSUANCE OF THE SUMMONS
FOR THE OFFENCE P/U/S 138 OF N.I. ACT VIDE ANNEXURE-A.

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 appearing for the
petitioner and the respondent.

2. This proceedings is initiated invoking Section
482 of the Code of Criminal Procedure, 1973 (Cr.P.C.)
praying this Court to quash the entire criminal proceedings
in C.C.No.10400/2018, arising out of P.C.R.No.742/2018,
on the file of Chief Judicial Magistrate, Bangalore Rural



District, including the order dated 05.12.2018, with regard to the registration of the case and issuance of the summons for the offence punishable Section 138 of Negotiable Instrument Act, 1881 (for short, "NI Act") and also seeks to quash order dated 16.05.2019 passed by the Chief Judicial Magistrate, Bangalore Rural District, Bangalore directing payment of 20% of the cheque amount to the respondent and to grant such other reliefs.

3. Learned counsel appearing for the petitioner would vehemently contend that the petitioner has admitted the liability only to the extent of Rs.15,00,000/- and not in respect of the Rs.75,00,000/-, which is the subject matter of the cheque. It is submitted that, even in the petition, the petitioner has stated that he is due and liable to pay the balance of mortgage debt of Rs.15,00,000/- to the respondent, but the claim in respect of double the amount would not constitute a legally enforceable debt or liability and while admitting the



present petition, this Court had taken note of the said contention.

4. Per contra, learned counsel appearing for the respondent would submit that, when the petitioner has categorically admitted the liability to the extent of at least Rs.15,00,000/-, the petitioner ought to demonstrate his bona fides by depositing the said amount. It is also not in dispute that the Trial Court, *suo motu*, directed the petitioner to deposit 20% of the cheque amount, though no application to that effect was filed by the respondent/complainant.

5. Having taken note of the submission made by the learned counsel appearing for the petitioner as also the respondent, the very ground which has been urged before this Court by the petitioner cannot be accepted and the same is a matter of trial. The petitioner is at liberty to urge the very same ground before the trial Court during the course of trial and no error can be found in the order



of the Trial Court taking cognizance of the offence in respect of issuance of the cheque is concerned and issuance of cheque is admitted. Whether the liability is confined to the admitted amount of Rs.15,00,000/- or extends to double the said amount, as claimed by the respondent, is a matter to be adjudicated by the trial Court and the said issue is kept open before the trial Court with regard to invoking Section 138 of NI Act is concerned.

6. Learned counsel appearing for the respondent would also submit that the respondent may be granted liberty to file an application before the trial Court seeking interim compensation and the direction issued by the trial Court for payment of 20% of the cheque amount was passed *suo motu*.

7. Learned counsel appearing for the petitioner also brought to the notice of this Court that the deposit of 20% of cheque amount is not mandatory. It is submitted that the Court is required to consider the factual aspects of



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each case while considering the legal issues involved between the parties. There is no dispute with regard to the aforesaid principle.

8. When there is no application filed by the respondent/complainant seeking payment of 20% of the cheque amount, it is appropriate to set aside the order passed by the trial Court exercising such power *suo motu*. The other grounds urged by the petitioner cannot be considered by this Court while exercising jurisdiction under Section 482 of the Cr.P.C.

9. The issue of questions of fact as also the questions of law with regard to the liability of the petitioner and the applicability of Section 138 of the NI Act are to be considered by the trial Court. The presumption under Section 139 of the NI Act is a rebuttable presumption, and the accused is entitled to rebut the same by placing appropriate material before the Trial



Court. In that view of the matter, this Court passes the following:

ORDER

- i. Criminal petition is ***allowed in part***. The order passed by the trial Court *suo motu* directing payment/deposit of 20% of the cheque amount is hereby set aside. However, liberty is reserved to the respondent/complainant to file an appropriate application seeking interim compensation before the trial Court.
- ii. Having regard to the fact that this matter is scuttled before this Court from the year 2019 till 2026, it is appropriate to direct the trial Court to dispose of the matter on merits within a period of nine (9) months.
- iii. Both the petitioner and the respondent as also their respective counsels, shall assist the trial Court in the expeditious disposal of the case



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within a period of nine (9) months from the date of receipt of a copy of this order.

- iv. The respondent/complainant is directed to place a copy of this order before the Trial Court immediately upon receipt thereof. The Trial Court shall thereafter make endeavour to dispose of the matter on merits within a period of nine (9) months from the date of receipt of a copy of this order.

Sd/-
(H.P.SANDESH)
JUDGE

GJM
List No.: 1 Sl No.: 37