



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 7706 OF 2019

BETWEEN:

SRI. NARAYANASWAMY C
S/O LATE CHINNASWAMY REDDY,
AGED ABOUT 57 YEARS,
R/AT NO.98/54,
G S PALYA MAIN ROAD,
ELECTRONIC CITY,
BANGALORE - 560 100.

...PETITIONER

(BY SRI. RAJASHEKARA R.V., ADVOCATE)

AND:

SRI S.MUNISWAMY
S/O LATE NARAYANAPPA,
AGED ABOUT 33 YEARS,
R/AT SINGENA AGRAHARA,
HUSKUR POST,
ANEKAL TALUK,
BANGALORE - 560 099.

...RESPONDENT

(RESPONDENT-SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO RESTORE THE COMPLAINT AND SET ASIDE THE ORDER DATED 21.08.2019 IN C.C.NO.19530/2017 PASSED BY THE LEARNED XII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU TO RESTORE THE PETITIONER/COMPLAINT.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 21.08.2019 passed by XII Additional Chief Metropolitan Magistrate, Bengaluru, in CC no.19530/2017, dismissing same for non-prosecution, this petition is filed.

2. Sri RV Rajashekara, learned counsel for petitioner submitted, alleging offence punishable under Section 138 of Negotiable Instruments Act, 1881 (**NI Act**), petitioner filed private complaint in PCR No.8467/2017. On taking cognizance, same was registered as CC no.19530/2017. It was submitted, petitioner was suffering from stomach ulcer and unable to walk. Due to same, he did not appear in said proceedings on few dates of hearing. On 21.08.2019, when petitioner was unable to appear, noting his absence, learned Magistrate proceeded to pass order dismissing petition for non-prosecution. Aggrieved thereby, this petition is filed.

3. It was submitted that non-appearance was for *bonafide* health reasons and not due to lack of interest in



proceedings. Observations by learned trial judge that complainant had not shown sufficient interest in securing execution of non-bailable warrant was not justified. There was no order non-bailable warrant by hand. Therefore, dismissal was not justified.

4. Learned counsel, on instructions of petitioner submitted, in case of provision of opportunity, petitioner-complainant would henceforth duly prosecute matter. On said grounds, sought for allowing petition.

5. Notice was issued. Respondent-accused is served and unrepresented. Petition averments are uncontroverted.

6. Heard learned counsel and perused material on record.

7. Perusal of legible portion of ordersheet would indicate absence of petitioner on few dates of hearing. Time and again, this Court as well as Hon'ble Supreme Court held, conduct on previous dates of hearing would not matter, Courts require to refer to reason for non-appearance on date of default.



8. Petitioner herein has contented that due to stomach ulcer, he was unable to move and attend Court on 21.08.2019. Indeed petitioner was represented by counsel and order sheet does not indicate an exemption application having been filed. However, on said ground alone, dismissal of petition for default would not appear justified, as only person who would suffer loss or inconvenience on account of same would be petitioner-complainant himself.

9. Under above circumstances, it is found fit to exercise powers under Section 482 of CrPC to meet ends of justice. Hence, following:

ORDER

- (i) Petition is ***allowed***;
- (ii) Impugned order dated 21.08.2019 passed by XII Additional Chief Metropolitan Magistrate, Bengaluru, in CC no.19530/2017, is set aside.
- (iii) Matter is restored to file of XII ACMM, Bengaluru.



(iv) To facilitate early conclusion, petitioner is directed to appear before learned Magistrate on **20.07.2026**.

(v) Learned Magistrate shall proceed with matter from stage it was pending as on 21.08.2019 after issuance of summons to respondent-accused afresh.

Sd/-
(RAVI V HOSMANI)
JUDGE