



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1329 OF 2022

BETWEEN:

SRI GIRISH M.S.
S/O M.S. RAO
AGED ABOUT 40 YEARS
R/AT PADMARAJA NILAYA
PARLADKA,
PUTTUR KASABA VILLAGE
PUTTUR TALUK, D.K. 574201.

.. PETITIONER

(BY SRI. RAJARAM S., ADVOCATE)

AND:

SWABHIMANI CREDIT SOURDA
SAHAKARI NIYAMITHA
REPRESENTED BY IS ITS SECRETARY
TULASI MANJUNATH
W/O. MANJUNATH
AGED 35 YEARS
R/AT KEMMAI,
CHIKKAMUDNOOR VILLAGE
PUTTUR TALUK, D.K 574201.

.. RESPONDENT

(BY SRI. KESHAVA BHAT A., ADVOCATE)

THIS CRL.RP IS FILED U/S.397 CR.P.C. PRAYING TO SET
ASIDE THE JUDGMENT AND ORDER DATED 19.07.2022 IN
CRL.A.NO.5052/2019 PASSED BY THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, D.K., MANGALORE SITTING AT PUTTUR D.K., AND



THE JUDGMENT OF CONVICTION AND SENTENCE IN C.C.NO.157/2015 PASSED BY THE PRL. CIVIL JUDGE AND JMFC, PUTTUR AND MAY BE ACQUITTED THE PETITIONER/ACCUSED FOR THE OFFENCE P/U/S 138 OF N.I ACT.

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. Rajaram, learned counsel for the petitioner and Sri. Keshava Bhat A., learned counsel for the respondent.

2. The petitioner/accused has suffered an order of conviction in C.C.No.157/2015 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, "NI Act",) confirmed by the First Appellate Court in Criminal Appeal No.5052/2019 is the revision petitioner.

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

Criminal prosecution was launched by the respondent/complainant for alleging the commission of the offence under Section 138 of the NI Act in respect of a dishonoured cheque issued by the revision petitioner, which came towards the repayment of the illegally recoverable debt.



There was no compliance to the callings of notice and therefore action was sought for.

4. Learned trial Magistrate after completing necessary formalities, summoned accused and recorded plea. Accused pleaded not guilty. Hence, trial was held. In order to prove the case of the complainant, he got examined himself as P.W.1 and placed on record seven documents, namely dishonored cheque, bank endorsement, legal notice, postal acknowledgment and the award copy issued by the competent authority for co-operative societies as Exhibit P1 to Exhibit P7.

5. As against the material evidence placed on record, there is no defence evidence at all placed by the accused.

6. Taking note of the above, learned trial Magistrate convicted the accused in the absence of any rebuttal evidence for the offence under Section 138 of the NI Act, which was confirmed by the First Appellate Court.

7. This Court having given anxious consideration to the revisional grounds noted that the directions issued by the Hon'ble Apex Court in the case of ***Indian Bank Association vs. Union of India & Others*** reported in ***(2014)5 SCC 590***



in commencing the trial from defence evidence has not taken place more so in the absence of any application filed under Section 142 of the NI Act.

8. Thus, the presumption available under Section 139 of the NI Act stood unrebutted for want of rebuttal evidence. Cross-examination of P.W.1 did not yield any positive materials to rebut the presumption. Exhibit P7 is the award copy where under the accused was liable to pay the amount, and towards the settled liability, the cheque in aquestion came to be issued and therefore, conviction of the accused for the offence under Section 138 of the NI Act confirmed by the First Appellate Court needs no interference having regard to the limited revisional powers in this revision petition.

Accordingly, the conviction order is upheld.

In view of the above following:

ORDER

Revision petition is ***dismissed***.

**Sd/-
(V SRISHANANDA)
JUDGE**