



CNR: KAHC010492122019

NC: 2026:KHC:36781
CRL.P No. 7866 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 7866 OF 2019

BETWEEN:

HARISH BHAT
S/O ANNAYYA BHAT
AGED ABOUT 52 YEARS
R/O SHAMRUDHI
OPP. REGAL MONARK APARTMENT
BANNANJE POST
UDUPI DISTRICT - 576 101.

...PETITIONER

(BY SRI. SHEKHAR BADIGER, ADVOCATE)

AND:

DR. RAMESH PAI
S/O VARADARAJ PAI
AGED ABOUT 72 YEARS
R/O AT DEV ASHISH
6TH CROSS, LAKSHMINDRANAGAR
KUNJIBETTU POST, UDUPI - 576 102
REP. BY HIS GPA HOLDER
SRI. EDMOND JOY D LIMA
AGED ABOUT 47 YEARS
R/O NO.39, SRI VAISHNAVI,
2ND PHASE, 15TH CROSS
GIRINAGAR, BENGALURU - 560 085

...RESPONDENT

(BY SRI. P. VITTAL SHETTY, ADVOCATE)

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka





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THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO SET ASIDE THE ORDER DATED 19.07.2019, PASSED BY THE XX A.C.M.M., AT BENGALURU IN C.C.NO.27915/2018.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 19.07.2019 passed by XX ACMM Bengaluru, in C.C.no.27915/2018 on an application filed by respondent - complainant under Section 143A of Negotiable Instruments Act, 1881 (**NI Act**), this petition is filed.

2. Sri Shekhar Badiger, learned counsel for petitioner submitted that petitioner was accused in private complaint filed by respondent in P.C.R.no.13112/2018 for offence punishable under Section 138 of NI Act and same was later registered as C.C.no.27915/2018. In said proceedings, respondent-complainant filed an application under Section 143A of N.I. Act. It was submitted that proceedings were initiated alleging failure to repay a sum of Rs.2,33,32,500/- (Rupees Two Crore Thirty Three Lakh Thirty Two Thousand and Five Hundred only),



petitioner herein had issued cheque bearing no.154328 drawn on Karnataka Bank Limited, Adi Udupi Branch, Udupi, dated 15.07.2018, when presented for collection on 25.07.2018, returned dishonoured with endorsement '*Funds insufficient*' on 26.07.2018 and even after service of statutory notice on 28.08.2018, accused had failed to repay amount. It was submitted that as per Section 138 of N.I. Act, offence would be completed on date of dishonour of cheque i.e., 26.07.2018, which was prior to insertion of Section 143A of N.I. Act by Amending Act no.20 of 2018 with effect from 01.09.2018 and since Hon'ble Supreme Court in ***G.J. Raja v.Tejraj Surana*** reported in ***AIR 2019 SC 3817*** has held said amending Act to be prospective, application under Section 143A of N.I. Act would be untenable. Besides, it was submitted that order passed on application was without proper reasoning.

3. Heard learned counsel. Perused impugned order and material on record.

4. At outset, this petition is by accused challenging an order passed by trial Court on application filed under Section



143A of N.I. Act in proceedings for offence punishable under Section 138 of N.I. Act.

5. Perusal of private complaint, copy of which is appended to this petition reveals that cheque in question was stated to be issued on 15.07.2018, presented for collection on 25.07.2018 and returned dishonoured along with Bankers memo on 26.07.2018. Though statutory notice is stated to have been issued on 23.08.2018 and served on accused on 28.08.2018 and period of 15 days for payment of cheque amount would expire on 12.09.2018. Therefore, question that would arise for consideration is, 'whether complainant would be entitled to avail benefit of Section 143A inserted by Act no.20/2018 with effect from 01.09.2018. Hon'ble Supreme Court in **G.G.Raja's** case (*supra*) has held provision to be prospective in nature. Hon'ble Supreme Court in case of **Dashrath Rupsingh Rathod v. State of Maharashtra** reported in **2014 (9) SCC 129** has held offence under Section 138 of N.I. Act would be complete on date of dishonour of cheque and only for purposes of cognizance, complainant would require to establish that accused had failed to pay cheque



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amount even after service of statutory notice demanding payment within timeline indicated in Section 138 of N.I. Act.

6. In view of above, since incident of dishonour of cheque has occurred prior to date on which amendment would come into effect, complainant would not be entitled to invoke Section 143A of N.I. Act. On said short ground, impugned order would warrant interference.

7. Consequently, Petition is **allowed**, impugned order dated 19.07.2019 passed by XX ACMM Bengaluru, in C.C.no.27915/2018 on application filed by respondent - complainant under Section 143A of NI Act stands quashed. Said application stands rejected and trial Court is directed to proceed with complaint in accordance with law expeditiously.

Sd/-
(RAVI V HOSMANI)
JUDGE