



CNR: KAHC010507522026

NC: 2026:KHC:51824
CRL.P No. 11063 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 11063 OF 2026

BETWEEN:

SRI ANIL P MENASINAKAI
S/O. PRAKASH BABU MENASINKAI,
AGED ABOUT 51 YEARS,
R/AT NO.1759, 22ND CROSS,
GOVINDARAJA NAGARA,
BENGALURU - 560040.

...PETITIONER

(BY SRI SIDDHARTH S VIRAKTAMATH, ADV. FOR
SRI SANTOSH S NAGARALE, ADVOCATE)

AND:

SRI B N SHIVASHANKAR B N
S/O. LATE. NANJUNDAPPA,
NO.842, 1ST PHASE,
1ST STAGE, 14TH CROSS,
CHANDRA LAYOUT,
BENGALURU - 560072.

...RESPONDENT

(BY SRI S NAGARAJ, ADVOCATE)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO a) SET ASIDE THE ORDER DTD 03.07.2026 PASSED BY THE HONBLE LII ACJM, BENGALURU CITY IN CC.NO.25951/2023, DISMISSING THE APPLICATION FILED BY THE PETITIONER U/S 311 OF CR.P.C., 1973.b) ALLOW THE APPLICATION FILED BY THE PETITIONER U/S 311 OF CR.P.C., 1973 AND DIRECT THE TRIAL COURT TO RECALL PW-1 FOR THE PURPOSE OF COMPLETING HIS CROSS-

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EXAMINATION, IN NECESSARY THROUGH VIDEO
CONFERENCING OR THROUGH ISSUANCE OF COMMISSION,
HAVING REGARD TO HIS HEALTH CONDITION.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the
petitioner and the learned counsel appearing for the
respondent.

2. This petition is filed impugning the order dated
03.07.2026 rejecting the petitioner's application under
Section 311 of the Code of Criminal Procedure, 1973
(Cr.P.C). The petitioner/accused before this Court is facing
a proceeding under Section 138 of the Negotiable
Instruments Act, 1881.

3. The learned counsel appearing for the
petitioner would submit that the cheque amount is
Rs.1,90,00,000/- and the petitioner has cross examined

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the complainant on one occasion, however some vital questions could not be put to the complainant and as such, the application is filed to recall the witness said application rejected. It is his submission that given the huge amount involved in the cheque, the rejection of the application will cause serious prejudice to the petitioner's defense.

4. Learned counsel appearing for the respondent would submit that earlier the petitioner had filed an application under Section 311 of Cr.P.C. The same was allowed and the complainant was cross examined partly and the matter was adjourned and thereafter, the petitioner did not appear and cross examine the complainant/witness.

5. It is the further submission that the complainant is aged 69 years and is suffering from serious ailment and is not in a position to move out of the residence, is under treatment and not in a position to properly speak.

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6. The learned counsel for the respondent has also produced the photograph of the respondent.

7. From the photograph it is noticed that the complainant is on oxygen support. Considering the present situation of the complainant, it appears that the complainant will be put to inconvenience and difficulty in facing the cross examination. However, that by itself cannot be a ground to deny the permission to cross examine the complainant given the fact that the cheque amount involved is Rs.1,90,00,000/- and in case of conviction, there is a possibility that the accused may have to suffer imprisonment as well. Hence, to balance the conflicting claims, it is necessary to allow the application subject to the following conditions.

8. Hence the following:

ORDER

- (i) The petition is ***allowed***. Consequently, the impugned order dated 03.07.2026 is set-aside.

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The application to recall the witness is allowed subject to the doctor certifying that the complainant is in a position to face the cross-examination.

- (ii) The petitioner shall pay cost of Rs.25,000/- to the complainant.
- (iii) The cross examination shall take place at the residence of the complainant through the Court Commissioner.
- (iv) The cost of the Court Commissioner shall be borne by the petitioner.
- (v) The Trial Court shall take the opinion of the doctor as to whether the complainant is capable of facing the cross examination.
- (vi) The doctor shall be present at the time of cross examination. The doctor's fee shall be borne by the petitioner.
- (vii) It is also made clear that on **01.10.2026** the Trial Court shall fix the date for cross examination.

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- (viii) The petitioner shall not seek adjournment on any ground what-so-ever on the date to be fixed for cross by the Trial Court.
- (ix) Considering the present health condition of the complainant, the Court is of the view that the trial shall be expedited.
- (x) Payment of cost and certification by the doctor that the complainant is capable of facing the cross examination.

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(ANANT RAMANATH HEGDE)
JUDGE

brn
List No.: 2 SI No.: 19