



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. 1579 OF 2022

BETWEEN:

MR. PRAVEEN KUMAR
S/O SANJEEVA
AGED 48 YEARS
R/AT SAVITHRI NILAYA
PILAR, AMBIKA ROAD
NEAR PANJADYA TEMPLE
KOTEKAR POST, SOMESHWARA VILLAGE
MANGALORE TALUK,
DAKSHINA KANNADA - 575 022.

...PETITIONER

(BY SRI. KARUNAKARA P., ADVOCATE)

AND:

MRS. GUNASAGARA
AGED 67 YEARS
W/O DEVENDRA
R/AT CHANDRAGIRI NILAYA
PILAR, KOTEKAR
SOMESHWARA VILLAGE
MANGALORE TALUK
DAKSHINA KANNADA - 575 022.

...RESPONDENT

(BY SRI. PRASANNA V R., ADVOCATE)

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SHARADAVANI
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Location: High
Court of
Karnataka



THIS CRL.RP FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONORABLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND CONVICTION ORDER OF SENTENCE PASSED IN JUDGMENT AND CONVICTION ORDER OF SENTENCE PASSED IN C.C.NO.720/2017 DATED 16.12.2021 ON THE FILE OF THE 8TH JMFC COURT, MANGALURU D.K., AND ORDER DATED 02.11.2022 IN CRL.A.NO.7/2022 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU PETITIONER PREFERS THIS REVISION PETITION AND ACQUIT THE PETITIONER IN THE SAID OFFENCE, ETC.,

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.Karunakara.P., learned counsel appearing for the revision petitioner and Sri.Prasanna.V.R., learned counsel appearing for the respondent.

2. The revision petitioner is an accused who suffered an order of conviction in C.C.No.720 of 2017 for the offence punishable under Section 138 of the



Negotiable Instruments Act, confirmed in Criminal Appeal No.7 of 2022.

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

- A private complaint under Section 200 Cr.P.C., came to be filed alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act alleging the commission of the offence under Section 138 of the Negotiable Instruments Act with the jurisdictional Magistrate.
- As per the complaint averments, accused is a prized subscriber of a chit run by the complainant and towards the liability, a chit agreement came to be executed vide Ex.P6. Towards the repayment of the amount, cheque in question marked at Ex.P1 came to be issued by the accused, which, on presentation came to be dishonored and legal notice was issued.



- There was no compliance to the callings of legal notice, which resulted in seeking action against the accused by the complainant for the offence punishable under Section 138 of N.I. Act.
- The learned Trial Magistrate, after completing the necessary formalities, summoned the accused and recorded the plea. As the accused pleaded not guilty, therefore, trial was held.
- In order to prove the case of the complainant, Smt.Guna Sagara got examined herself as PW-1 and placed on record Six documents, which were exhibited and marked as Exs.P1 to P6 comprising of dishonored cheque, bank endorsement, office copy of the legal notice, postal receipt, un-served postal cover and original agreement.
- Detailed cross-examination of PW-1 did not yield any positive materials to advance defence of the accused that there was misuse of the cheque, which was given as security.



- As against the material evidence placed on record by the complainant, accused got examined himself as DW-1 and Sri.Harish as DW-2 and Sri.Harish Kundar as DW-3 who were also participated in the alleged cheat transaction and witnesses.
- Their oral evidence was to the effect that, accused had borrowed only a sum of Rs.1,00,000/- and cheque in question came to be dishonored.
- Cheque in question came to be issued as security, which has been filled up by the complainant in a sum of Rs.3,75,000/- and therefore, accused is not liable for the offence punishable under Section 138 of N.I. Act.
- In the cross-examination of accused, he admits that he has an account in Syndicate Bank in Kotekar Branch, Mangaluru, and Ex.P1 is his cheque issued by Syndicate Bank and signature found therein is his signature. It is also admitted that upto 2018, he was residing in Savithri Nilaya, Pilar, Ambika Road in



Kotekar, Mangaluru and later on, he has changed the house.

- These aspects of the matter would be sufficient enough to raise the initial presumption in favour of the complainant in view of Ex.P6 and signature found therein is admitted by accused. No doubt it is a rebuttable presumption.
- To rebut the presumption available to the complainant, accused got examined himself as DW-1 and two more witnesses, which has been considered by the Trial Magistrate and noted that there was no proper rebuttal evidence and convicted the accused.
- The order of conviction is upheld by the First Appellate Court in the appeal filed by the accused in Criminal Appeal No.7 of 2022.

4. Thereafter, accused is before this Court in this revision petition.

5. The learned counsel appearing for the revision petitioner reiterating the grounds urged in the revision



petition would vehemently contend that there is a misuse of the cheque and therefore, accused is not liable.

6. Per contra, learned counsel appearing for the respondent supports the impugned judgments.

7. Having heard the arguments of both sides, this Court perused the material available on record meticulously. On such perusal of the material available on record, as could be seen from the oral testimony of PW-1 coupled with Ex.P6, accused participating in the chit run by the complainant is not in dispute.

8. Further, according to the accused a sum of Rs.1,00,000/- was taken as the chit amount but a cheque, a signed cheque, which was issued in blank came to be misused by filling-up a sum of Rs.3,75,000/-. No Positive action has been taken by the accused for the alleged misuse even after engaging the



counsel before the Trial Court while contesting the criminal case.

9. Taking note of these aspects of the matter and the admissions made by the accused in his cross-examination, this Court does not find any good grounds to interfere with the order of conviction, recorded by Trial Magistrate, confirmed by the First Appellate Court, having regard to the limited scope of revisional jurisdiction.

10. Accordingly, the following:

ORDER

The Revision Petition is hereby ***dismissed.***

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