



CNR: KAHC010596482024

NC: 2026:KHC:37709
CRL.RP No. 1369 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.1369 OF 2024

BETWEEN:

SMT. SHASHIKALA
W/O MAHADEVAIAH M
AGED 42 YEARS
R/AT HOUSE NO.41,
2ND CROSS, KUKKARAHALLI
SARASWATHIPURAM
MYSURU-570009

...PETITIONER

(BY SRI. RUPESH KUMAR S, ADVOCATE)

AND:

SMT. D K GOWRA
D/O LATE DEVEGOWDA
AGED ABOUT 44 YEARS
R/AT HOUSE NO.599
6TH CROSS, JANATHANAAR
MYSURU-570009

...RESPONDENT

(BY SRI. AGNIHOTRI KESHAV RANGANATHACHAR, ADVOCATE)

THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.PC (FILED
U/S 438 R/W 442 BNNS) PRAYING TO SET ASIDE THE
IMPUGNED JUDGMENT DATED 31/03/2023 PASSED BY THE

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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LEARNED I ADDL. CIVIL JUDGE AND JMFC AT MYSURU IN C.C. NO.3643/2015 AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This revision petition is filed against the judgment dated 31.03.2023 passed in C.C.No.3643/2015 and also against the judgment dated 27.08.2024 passed in Crl.A.No.206/2023.

2. This matter is listed for admission. Heard the learned counsel appearing for the respective parties.

3. The factual matrix of case of the complainant before the Trial Court is that accused and the complainant are known to each other. On this acquaintance, on 18.09.2013, accused approached the complainant and borrowed loan of Rs.1,90,000/- for household purpose and for paying the hand loans and issued subject matter of Cheque towards his liability. When the Cheque was presented, the same was dishonoured with an endorsement 'funds insufficient'. Hence, the complainant issued the legal notice and the same was served



on the accused. In spite of receipt of notice, accused not repaid the amount. Hence, filed the complaint, cognizance was taken and accused was secured and she did not plead guilty and claims the trial.

4. In order to prove the case of the complainant, she herself examined as PW1 and got marked the documents at Ex.P1 to P5(a). On the other hand, accused examined herself as DW1 and got marked the document at Ex.D1. The Trial Court having considered both oral and documentary evidence placed on record comes to the conclusion that accused has not rebutted the case of the complainant placing cogent material and hence, convicted and sentenced the accused.

5. Being aggrieved by the judgment of the Trial Court, an appeal was preferred before the Appellate Court. The Appellate Court also having reassessed both oral and documentary evidence placed on record comes to the conclusion that the Trial Court has rightly considered the material on record while convicting the accused and confirmed the judgment of the Trial Court.



6. The counsel for the petitioner would vehemently contend that both the Courts have not properly appreciated the defence of petitioner and fails to take note of the material on record. Hence, it requires interference of this Court.

7. Per contra, the counsel for the respondent would vehemently contend that both the Courts have considered both oral and documentary evidence placed on record in the proper perspective and rightly convicted and sentence the accused for the offence punishable under Section 138 of N.I. Act and hence, exercising the revisional jurisdiction does not require.

8. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, it discloses that the main contention of the counsel for the petitioner is that complainant and accused are running a chit transaction. But in order to substantiate the same, not produced any document. The second contention of the counsel is that there was a material alteration of the cheque but the same has not been substantiated proving the same. The other contention of the counsel for the petitioner is that notice was not served and also produced the document of Ex.D1-Aadhar



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Card to show the address. In this regard, during the course of cross examination, DW1 admitted the very address mentioned in the legal notice but only contend that subsequently, she is residing in the address mentioned in Ex.D1. The counsel appearing for the petitioner brought to notice of this Court that Ex.D1 was issued in 2012. But when there is a clear admission on the part of DW1 that the address mentioned to the legal notice is her address and also in the cross-examination, she admits that Ex.D1 was issued in 2015, but document discloses that it was issued in 2012. Whether she was in the very same address on the date of issuance of notice and the same was obtained subsequently, there is no material and accused also not placed any documents other than Ex.D1 before the court to show that as on the date of issuance of legal notice, she was not residing in the said address and admitted the address mentioned in the notice which was issued. When such being the case, the contention that notice was not served and the same is not the address cannot be accepted.

9. The other contention of the counsel appearing for the petitioner is that the complainant was not having the



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capacity to lend the money of Rs.1,90,000.00. But admittedly both the complainant and accused are the securities and working in the same department in Infosys and having acquaintance with each other.

10. With regard to the capacity is concerned, DW1 has not led any evidence before the Trial Court. DW1 has denied the capacity of the PW1 only during the course of cross-examination when suggestion was made that complainant was not having the capacity to lend the money of Rs.1,90,000/-. But PW1 has given an explanation that the brother of the complainant gave the money, who had sold the property and the said amount was given to her and the same amount was advanced to accused. But counsel appearing for the petitioner would submit that having borrowed the amount from the brother is not stated in the complaint as well as in the notice. The said contention also cannot be accepted for the reason that only with regard to the advancing of the amount has to be stated and whether the complainant borrowed the amount from the brother and lent the same is need not be necessary to mention the same in the complaint or in the legal notice. The



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said contention also cannot be accepted. Having taken note of the defence is that cheque was given for chit transaction is not substantiated. But admitted the issuance of the cheque and also not denied the signature. The counsel appearing for the respondent also contend that when the cheque was issued and the signature was admitted, though an attempt is made to say that there was an material alteration but the same was not substantiated. All these materials were taken note of by the Trial Court and Appellate Court having assessed the material available on record and held that the defence which was taken was not probalised by placing any substantial material before the court and there is no any rebuttal evidence before the court to show that the cheque was given towards the chit transaction. In the cross examination DW1 categorically admits that she is not having any document to substantiate that both of them were running the chit and in connection with the chit only the cheque was given. When there is no rebuttal evidence under Section 139 of N.I. Act, the very contention of the counsel for the petitioner cannot be accepted. Hence, I do not find any ground to admit the revision petition. The scope of



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revision is also very limited. If any miscarriage of justice in non consideration of the evidence available on record, then this Court can exercise the revisional jurisdiction and the same is not found in the case on hand. Hence, the revision petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

SN