



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1569 OF 2022

BETWEEN:

MADHAVA RAO BABU,
DRIVER STAFF NO.73348,
MAINTENANCE CELL,
CANARA BANK, HEAD OFFICE, J.C.ROAD,
BANGALORE - 560 006.

ALSO R/AT MADHU RAO,
S/O YELLOGIRAO,
AGED 53 YEARS,
#29, CHUNCHAGHATTA ROAD,
KANAKAPURA MAIN ROAD,
OPP. METRO, SHARADANAGARA, KONANAKUNTE,
BENGALURU - 560 002.

...PETITIONER

(BY SRI. MANJUNATHA S., ADVOCATE)

AND:

JAGADISH PRABHU,
S/O B.V.NALIGE,
R/AT NO. 36-1-19,
4TH TEMPLE STREET,
16TH CROSS, MALLESHWARAM,
BENGALURU - 560 003.

...RESPONDENT

(BY SRI. MANJUNATHA RAO BHOUNSLE., ADVOCATE)





THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.PC PRAYING TO 1. SET ASIDE THE JUDGMENT, CONVICTION AND SENTENCE PASSED BY SCCH-6 AND IV ADDL.AND XXX A.C.M.M., BENGALURU IN C.C.NO.19204/2016 DATED 17.11.2018. 2.SET ASIDE THE JUDGMENT PASSED BY THE LXVIII ADDL.CITY CIVIL AND SESSIONS JUDGE BENGALURU CITY (CCH-69) IN CRL.A.NO.2530/2018 DATED 06.09.2022 CONFIRMING THE TRIAL COURT JUDGMENT AND PLEADED TO ACQUIT THE PETITIONERS IN THE ABOVE CASE.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Heard Sri. Manjunatha S., learned counsel for the petitioner and Sri. Manjunatha Rao Bhounsle, learned counsel for the respondent.

2. Accused who suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, in CC No.19204/2016 confirmed in Criminal Appeal No.2530/2018 is the revision petitioner.



3. Facts of the case are as under :

3.1 In respect of a dishonored cheque, a private complaint under Section 200 of the Code of Criminal Procedure came to be filed with the jurisdictional Magistrate seeking action for the offence under Section 138 of the Negotiable Instruments Act by contending that accused and complainant are known to each other and a sum of Rs.4,50,000/- was lent as hand loan.

3.2 Accused in order to repay the same, issued a cheque bearing No.142628 dated 05.01.2016, which on presentation came to be dishonored with an endorsement 'funds insufficient'.

3.3 Thereafter legal notice came to be issued which is not served on the accused though address mentioned in the postal cover and acknowledgment is that of the accused. Therefore, complainant sought action.

3.4 Learned Trial Magistrate after completing the necessary formalities, summoned the accused and



recorded the plea. Accused pleaded not guilty. Therefore the trial was held.

3.5 In order to prove the case of the complainant, he got examined himself as PW1 and placed on record seven documents which were exhibited and marked as Exhibits P1 to P7. As against the material evidence on record, accused got examined himself as PW1 and did not choose to place any documentary evidence.

3.6 Sum and substance of the defence evidence is that Cheque in question was misplaced which has been misused by the complainant. No positive action has been taken by the accused in respect of the misappropriation of the cheque by the complainant at least after he engaging the services of an advocate in the pending criminal case.

3.7 Thus, learned Trial Magistrate noted that the presumption available to the complainant under Section 139 of the Negotiable Instruments Act is not rebutted and convicted the accused.



3.8 Thereafter accused filed an appeal before the District Court which came to be dismissed on merits by considered judgment dated 06.09.2022.

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

5. Learned counsel for the petitioner reiterating the grounds urged in the petition would contend that complainant is a stranger to the accused and cheque which was misplaced by him has been misutilized by the complainant and thus there is no legally recoverable debt.

6. He would further contend that the legal notice is not served on the accused and therefore no offence is made out.

7. Per contra, counsel for respondent supports the impugned judgment.

8. Having heard the arguments of both sides, this Court perused the material on record meticulously.



9. On such perusal of the material on record, there is no dispute that Exhibit P1 - Cheque belongs to accused and signature found therein is that of the accused.

10. Accused in his cross-examination clearly admitted that the address mentioned in the postal acknowledgment and postal cover is that of his address. Therefore, legal notice is presumed to have been served on the accused.

11. Defense of the accused is that the cheque in question was misplaced. To substantiate the same, no material evidence is forthcoming on record except the oral testimony of DW1.

12. No complaint to the police or Magistrate is filed for the alleged misuse of the cheque by the complainant even after he engaged in the services of an advocate.

13. Further, '*no stop payment*' instructions are given or banker was intimidated about the misplacement of the cheque.



14. Taking note of these aspects of the matter, Order of conviction recorded by Trial Magistrate confirmed by the First Appellate Court needs no interference that too in the revisional jurisdiction.

15. Accordingly, following order:

ORDER

Criminal Revision petition is ***dismissed***.

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

SNC
List No.: 2 Sl No.: 22