



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 1654 OF 2024

BETWEEN:

1. SMT. PUSHPA. G
W/O SRI SANJAY B.C.,
AGED ABOUT 51 YEARS,
R/AT NO.661, ASHRAYA, 9TH MAIN,
VINAYAKA LAYOUT, 11TH BLOCK,
NAGARABHAVI 2ND STAGE,
BENGALURU - 560 072

...PETITIONER

(BY SRI. KESHAHA MURTHY C N.,ADVOCATE)

AND:

1. SMT. MANASA. M
W/O SRI SARAVANAN,
AGED ABOUT 39 YEARS,
R/AT NO.14, NAL WING TUNNEL ROAD,
MURUGESH PALYA, NEAR OLA CAB OFFICE,
OLD AIRPORT ROAD, BENGALURU - 560 017

...RESPONDENT

(BY SRI. ABHISHEK S HALLIKERI FOR
SRI. JAGADEESHA GOWDA.,ADVOCATES)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO CONVICT THE RESPONDENT FOR THE DOUBLE THE CHEQUES AMOUNT ALONG WITH MAXIMUM PUNISHMENT AS ENVISAGED U/S 138 OF N.I. ACT BY MODIFYING THE IMPUGNED JUDGMENT DATED 18.01.2020 IN

Digitally Signed By:
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CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

C.C.NO.11732/2016 PASSED BY THE XIII ADDL. CMM AT BENGALURU WHICH IS CONFIRMED BY THE HONBLE LXXV ADDL.CITY CIVIL AND SESSIONS JUDGE AT BENGALURU BY ITS JUDGMENT DATED 06.05.2024 IN CRL.A.NO.303/2020.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

1. This is the revision petition filed under Section 397 r/w 401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.,') by the revision petitioner/ complainant praying for convicting the accused for double the cheque amount with maximum punishment as envisaged under Section 138 of the Negotiable Instruments Act, 1881 (in short 'NI Act') by modifying the impugned judgment dated 18.01.2020 passed in C.C.No.11732/2016 on the file of XIII Additional Chief Metropolitan Magistrate, Bengaluru (in short, 'the Trial Court'), confirmed in Criminal Appeal No.303/2020 dated 06.05.2024 on the file of the LXXV Additional City Civil and Sessions

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CNR: KAHC010607322024

Judge, Bengaluru (CCH 76) (in short, 'the Appellate Court').

2. Parties would be referred with their ranks, as they were before the trial Court, for the sake of convenience and clarity.
3. The complainant has filed the complaint before the trial Court under Section 200 of Cr.P.C., praying for punishing the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act').
4. The case of the complainant in nutshell is that accused is the friend of the complainant since 9 years. During April-2014, the accused sought financial assistance and hand loan to clear her financial debts and for other commitments; accordingly, the complainant has given a sum of Rs.10,00,000/- on 03.04.2014 and another sum of Rs.10,00,000/- on 06.04.2014 to the accused. On 06.04.2014, the accused executed the letter

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K B GEETHA



CNR: KAHC010607322024

confirming the receipt of Rs.20,00,000/-. After receipt of the said loan amount, the accused has not repaid it. Thereafter, the complainant insisted for repayment but accused failed. After repeated requests and demands by the complainant, the accused has issued two cheques bearing cheque Nos.714782 and 714783 dated 06.07.2015, both drawn on State Bank of India, Basaveswaranagar Branch, Bengaluru. The complainant presented them for encashment through her banker i.e., Axis Bank, Rajajinagar Branch, Bengaluru which were dishonoured and returned with endorsement 'funds insufficient' on 09.07.2015. The complainant got issued legal notice dated 05.08.2015 to the accused through her counsel demanding to repay Rs.20,00,000/-; once again the accused approached the complainant and requested for 3 more months to repay the amount; accepting her request, the complainant has given time to the accused. Further,

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

those two cheques were getting lapsed on 05.10.2015; for that reason, the accused has issued two more post-dated cheques dated 19.11.2015 bearing Nos.050263 and 050274 (subject cheques) drawn on State Bank of India, Basaveswaranagar, Bengaluru. The complainant has presented the subjects cheques through her banker i.e., Axis bank on 19.11.2015; but they return unpaid with endorsement 'funds insufficient' dated 26.11.2015 and it was informed to the complainant through her bank. Subsequently, the complainant has issued statutory legal notice dated 18.12.2015 to the 3 addresses of the accused. The notice to first and third address return unserved and no endorsement is received by the complainant; as far as notice to second address, the complainant has not received the acknowledgement from the postal authority; hence, she had written letter to the postal authority praying for details and then they have given the net

Digitally Signed By:
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CNR: KAHC010607322024

tracking letter confirming that said notice sent to second address is delivered on 19.12.2015. Even after its receipt, the accused has not repaid the loan amount. Hence, she has filed the present complaint on 01.02.2016.

5. After recording the sworn statement of the complainant, the case was registered as C.C.No.11732/2016 and summons issued to the accused. After service of summons, the accused appeared through her counsel and pleaded not guilty of the offence. After recording the evidence of the complainant, statement of accused under Section 313 Cr.P.C., was recorded. However, accused has not let in any defence evidence.
6. After hearing arguments, the trial Court came to the conclusion that based on Ex.D.1, the amount due to the complainant is only Rs.2,00,000/- and thus, convicted the accused and sentenced to pay fine of Rs.2,00,000/-.



CNR: KAHC010607322024

7. Aggrieved by the same, the accused has preferred appeal in Criminal Appeal No.304/2020 and not satisfied with the compensation, the complainant has filed Criminal Appeal No.303/2020. The appellate Court has passed the judgments separately in both the appeals and dismissed both the appeals. The appeal of the complainant was dismissed on the ground that the complainant cannot file appeal against inadequate sentence.
8. Aggrieved by the same, the complainant is before this Court. Against dismissal of his appeal, the accused has not preferred any revision petition.
9. Heard the arguments of both sides.
10. The learned counsel for revision petitioner Sri Keshava Murthy C.N would submit that the transaction between the complainant and the accused is given in writing with the handwriting of the accused as per Ex.P.14, which was executed at undisputed point of time. This document is not at all

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CNR: KAHC010607322024

challenged at the time of cross-examination of the complainant. However, only by placing reliance on Ex.D.1 and no reply given by the complainant to it, the trial Court has convicted the accused only for a sum of Rs.2,00,000/-. In Ex.D1, the cheque numbers are not mentioned. Even though, the appellate Court came to the conclusion that the finding of trial Court on this point was erroneous; the appellate Court under the erroneous belief that the appeal against inadequate compensation is not maintainable and dismissed his appeal. Hence, the finding of trial Court without examining Ex.P.14 is grossly erroneous; finding of the appellate Court that appeal is not maintainable against inadequate sentence is also incorrect and erroneous. Hence, prayed for allowing the revision petition.

11. The learned counsel Sri Abhishek S Hallikeri for Sri Jagadeesha Gowda for the respondent would submit that Ex.D1 is dated 19.09.2014, issued on

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

20.09.2014 and received by the complainant as per Ex.D.3 - the postal acknowledgment. Even though, the complainant received said notice, she has not given any reply to Ex.D.1 and not returned the cheques mentioned in Ex.D.1. On the other hand, she has misused those cheques and filed the present case, which is not proper. The receipt of Ex.D.1 and contents of Ex.D.1 were admitted by the complainant in her cross-examination. The accused need not stepped into witness box to rebut the presumption available in favour of the complainant; but he can rebut it even from the cross-examination of complainant, which he did so in the present case. Even though, in Ex.D.1, it is narrated that Rs.2,00,000/- received by the accused was repaid, the trial Court has not appreciated Ex.D.1 in an appropriate manner and convicted the accused, which was under challenge in Criminal Appeal No.304/2020. Hence, the accused has not admitted

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K B GEETHA



CNR: KAHC010607322024

the finding of the trial Court. Thus, the accused has raised the probable defence. The accused need not establish his defence beyond reasonable doubt but he has to establish by the principle of preponderance of probabilities. The accused has also taken the contention while cross-examining the complainant that, the complainant has no financial capacity to lend the amount of Rs.20,00,000/- mentioned in Exs.P.1 and P.2 cheques. Hence, prayed for dismissal of the revision petition.

12. Having heard arguments of both sides, verifying the revision petition papers, the trial Court and the appellate Court records, the point that arises for consideration is :

"Whether the revision petitioner establishes perversity or grossly erroneousness in the judgment of the trial court and appellate court or the judgment of the trial court and appellate court is glaringly unreasonable or wholly unreliable or untenable and the judgment of the trial court and appellate court considered

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

immaterial or irrelevant material or no material or non-consideration of any relevant material or judicial discretion has been exercised arbitrarily or capriciously ?"

13. The finding of this Court on above point is in **Affirmative** for the following :

REASONS

14. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah in Criminal Appeal No.3654/2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** reported in ***2026 SCC OnLine SC 1485***. In the aforesaid judgment, the Hon'ble Apex Court at paragraph Nos.7.1. to 7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

"7.1 This Court, in the State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004)

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

7 SCC 659 observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgement and orders of the trial and appellate courts.

7.2 Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of record. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452,

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:

"5.... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by re-appreciating the oral evidence...."

7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

15. Thus, only if the judgment of the trial Court confirmed by appellate Court is perverse or grossly erroneous, or grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

16. The alleged offence in this case is the offence under Section 138 of NI Act; to attract the offence under Section 138 of NI Act, the complainant has to satisfy the following ingredients:

(i) that there is legally enforceable debt;

(ii) that the cheque was drawn from the account of bank for the discharge in whole or in part of any debt or other liability;

(iii) that the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(iv) that cheque so issued has been returned due to insufficiency of funds;

(v) the payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing to the drawer of the cheque, within 15 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

(vi) the drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice.

17. If the aforementioned ingredients are satisfied, then there shall be a presumption under section 139 of the N.I. Act. Always, the cheque is a bill of exchange and thus there shall be a presumption under Section 118 of the NI Act. There is also statutory presumption under Section 139 of NI Act that there exists legally recoverable debt and the cheque is issued for recovery of legally recoverable debt either wholly or in part. But the presumptions available under Section 118 and 139 of the NI Act are rebuttable presumptions.
18. With this background, the facts of the present case are to be analysed and to verify whether the Trial Court and the Appellate Court have not examined the

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

records produced by either party or erroneously appreciated the evidence.

19. The contention of the complainant mentioned in the complaint and in his affidavit evidence is that on 03.04.2014 and 06.04.2014, the accused borrowed a sum of Rs.10,00,000/- each from the complainant and on 06.04.2014, the accused in her own handwriting has stated that, she has received Rs.20,00,000/- from the complainant and she will repay it.
20. When the complainant has made repeated requests and demands, the accused has issued two cheques as per Exs.P.15 and P.16 dated 06.07.2015 for a sum of Rs.10,00,000/- each drawn on State Bank of India, Basaweswaranagara Branch and they were dishonoured as per Exs.P.17 and P.18. Thereafter, the complainant has issued the legal notice dated 05.08.2015 to the accused as per Ex.P.19 which was served on the accused as per Ex.P.21. But, she has



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

not replied to this notice. On the other hand, the accused personally approached the complainant and requested 3 more months, which was granted to her by the complainant. Afterwards, the subject cheques i.e. Exs.P.1 and P.2 dated 19.11.2015 were issued by the accused which are drawn on State Bank of India, Basvesvaranagar Branch, Bengaluru, as the period mentioned in the earlier two cheques were being closed.

21. Ex.D.1 is the notice on behalf of the accused dated 19.09.2014 which was issued to the complainant on 20.09.2014 and served on the complainant as per Ex.D.3-postal acknowledgement. The complainant admitted these documents in her cross-examination. According to Ex.D.1, the complainant has advanced a sum of Rs.2,00,000/- to the accused and insisted for issuance of blank cheques and e-stamp paper of Rs.200/- and as per the demand and instructions, the accused has issued four (4) signed cheques i.e.,

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K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

two (2) cheques drawn on Indian Overseas Bank Mahalakshmipuram Branch and two (2) cheques drawn on State Bank of India, Basavesvaranagar Branch and one e-stamp paper of Rs.200/- as security. Thus, according to Ex.D.1, only 2 cheques of State Bank of India, Basavesvaranagar Branch were issued by the accused to the complainant.

22. As discussed above as per Exs.P.15 and 16, two (2) cheques drawn on Basavesvaranagar Branch were dishonoured in the month of July-2015. However, this letter as per Ex.D.1 is of September 2014. Furthermore in Ex.D.1, it is stated that the accused has repaid the entire Rs.2,00,000/- advanced by the complainant as hand loan together with interest at the rate of 3% per week on 08.06.2014. It is to be noted here that the rate of interest mentioned in Ex. D.1 is 3% per week. However, there is no cross-examination of PW.1 that she lent money to the accused and the accused agreed to repay

Digitally Signed By:
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CNR: KAHC010607322024

Rs.2,00,000/- with interest at 3% per week. It is noted only in Ex.D.1.

23. The trial Court and appellate Court have already come to the conclusion that the accused failed to establish the repayment of Rs.2,00,000/- mentioned in Ex.D.1. The said fact being a finding of fact, which is not challenged by the accused has attained finality.
24. The cheques at Exs.P.1 and P.2 are issued and duly signed by the accused, the same were dishonoured and legal notice issued to the accused by the complainant are not all in dispute.
25. While cross-examining the complainant, only a vague suggestion is put to her that at the time of lending the amount the complainant did not possess such amount which is denied by her. Except putting this suggestion on financial capacity of the complainant, no other suggestion is made by the accused to the complainant. On the other hand, the complainant in her cross-examination has deposed that she is doing



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

Kanchivaram saree business in her own house but not obtained any licence from any Department and not paying sales tax and not shown in her IT returns.

26. In the cross-examination, PW.1 categorically deposed that on 03.04.2014 when she lent Rs.10,00,000/- to the accused, she has not obtained any document from her on that day; however, on 06.04.2014 again she lent Rs.10,00,000/-. At that time, accused assured that she would repay the said amount within a week and has written so in a White paper. Ex.P.14 is the said White paper recital of the accused.

27. Ex.P.14 is written in a white sheet. It is in the handwriting of accused and it is narrated as follows:

"As I have taken Rs.20 lakhs from Pushpa Sanjay i.e. Rs.10 lakhs on 03/04/2014 and 6/4/14 other 10 lakhs. So I have to return to her."

Below the said narration; it is narrated as 'yours faithfully' and signature of accused and below that

Digitally Signed By:
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CNR: KAHC010607322024

Manasa M, 6/4/14 is written in the handwriting of accused.

28. Even though PW.1 was cross-examined in length on several occasions by the learned counsel for the accused, not even a single suggestion is put to her that Ex.P.14 is not in the handwriting of the accused and it does not bear her signature; or it is concocted or by putting some threat, coercion or undue influence, the said document was taken by the complainant from accused. Thus, Ex.P.14 is not at all a disputed document.
29. The trial Court only based on Ex.D.1 came to the conclusion that the transaction between the complainant and the accused is for a sum of Rs.2,00,000/-. When the trial Court believed Ex.D.1, it ought to have believed it in entirety and ought to have acquitted the accused that no amount was due from the accused as on the date of presentation of the cheque but the trial Court convicted the accused



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

based on Ex.D.1 for a sum of Rs.2,00,000/- which is grossly erroneous.

30. As discussed above, issuance of cheque, putting signature on it, receipt of legal notice were not at all disputed by the accused. Under these circumstances, the presumption in favour of the complainant under Sections 118 and 139 of the NI Act would come into force. These are the rebuttal presumptions. According to Section 118, the cheques were issued for consideration and they were issued on the date mentioned in those cheques.
31. Under Section 139 of the NI Act, the presumption is that these cheques were issued towards discharge of legally recoverable debt or liability either whole are in part.
32. To rebut these presumptions, except producing Ex.D.1, to D.3, nothing was produced by the accused.

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CNR: KAHC010607322024

33. The contents of Ex.D.1, its date and date of cheques mentioned in Exs.P.1 to P.15 and P.16 are important to decide whether Ex.D.1 would discharge the burden of the accused.
34. As stated above, Ex.D.1 is dated 19.09.2014. The amount lent by the complainant is on 03.04.2014 and 06.04.2014. There is no narration about Ex.P14 in Ex.D.1. The cheque numbers are not mentioned in Ex.D.1. On the other hand, there is mention of two (2) cheques of Indian Overseas Bank, and two (2) cheques of SBI Bank. However, as discussed above, Exs.P.1, P.2, P.15 and P.16 are not of Indian Overseas Bank but of only of Basavesvaranagar Branch. When cheque numbers were not mentioned in Ex.D.1, it is to be held that there is a vague defence raised under Ex.D.1. It is elicited from the cross-examination of PW.1 that at the time of issuance of Ex.D.1, she has not returned those cheques to the accused; at that time, the



CNR: KAHC010607322024

complainant volunteered that at that time, no cheques were issued by the accused. She further deposed that she has not given reply to Ex.D.1. But deposed that after receipt of such notice, she approached the accused for which she answered that it was accidentally issued. She only admitted in her cross-examination that what are the recitals in Ex.D.1 but she has not admitted that those recitals are true. According to her, after receipt of Ex.D.1, she approached the accused, and the accused told that it was accidentally issued and not given proper reply.

35. It is probable that the complainant would have given written reply to the accused after receipt of Ex.D.1 but she did not do so. However, according to the complaint averments and the evidence of complainant at that time, no cheque was issued by the accused, only subsequently i.e. during July-2015, two cheques were issued by the accused as per



CNR: KAHC010607322024

Exs.P.15 and P.16 and when they were dishonoured and legal notice was issued, the complainant has not taken further legal action against the accused. Subsequently, the accused has issued the subject cheques dated 19.11.2015. Hence, there was no occasion for the complainant to give reply to Ex.D.1 stating that the cheques were issued by the accused for a sum of Rs.20,00,000/- and not for Rs.2,00,000/- because cheques were not issued by the accused at that relevant point of time. Nothing prevented the accused to substantiate her defence by entering into witness box. However, for the reasons best known to accused, she has not stepped into the witness box to deny these aspects.

36. Only before this Court, the learned counsel for the respondent contended that the accused has not received the legal notice. However, said argument is not acceptable one because the legal notice was issued to the address of accused mentioned in the

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K B GEETHA



CNR: KAHC010607322024

legal notice and also in the complaint, which is the correct address of accused. The notice was issued to three addresses of the accused; one to her residential address; second to her shop address and third to the address of her husband. None of these addresses were disputed by the accused. Furthermore, Exs.P.11 and P.12 were not disputed by the accused. They revealed that the postmaster has given the track consignment report that notice dated 18.12.2015 was delivered on 19.12.2015. Hence, this argument of accused is not acceptable one.

37. As far as the dismissal of appeal by the appellate Court is concerned, in the Proviso to Section 372 of Cr.P.C., it is clearly held that the victim can challenge the judgment of acquittal or lesser sentence or inadequate compensation before the Court where ordinarily the appeal could be filed against the judgment of conviction. Accordingly, the complainant



CNR: KAHC010607322024

has preferred the appeal before the appellate Court. Hence, it was incumbent upon the appellate Court to consider the appeal but without reading the Proviso to Section 372 of Cr.P.C., in an appropriate manner, the appellate Court wrongly dismissed the appeal. Hence, the provision of law is not at all appreciated in the manner it is to be appreciated by the appellate Court.

38. As discussed above, the finding of the trial Court based on Ex.D.1 was grossly erroneous and at the same time, the finding of the appellate Court that appeal against inadequate sentence not maintainable is also completely not in accordance with law. Under these two circumstances, in the judgment of Hon'ble Apex Court referred above in **Kunte Gowda's** case, it is held that the revision Court can interfere with such judgments. Hence, this Court holds that revision petition is maintainable in law. Further, the judgment of trial Court and the appellate Court are



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

grossly erroneous and not in accordance with the provisions of law.

39. Hence this court passes the following:

ORDER

- i. The Criminal Revision Petition is ***allowed***.
- ii. The judgment of conviction passed by the trial Court confirmed by the appellate Court is unaltered. However, the sentence imposed by the trial Court and confirmed by the appellate Court is modified.
- iii. The accused is sentenced to pay fine of Rs.20,50,000/-. Out of this fine amount Rs.20,40,000/- shall be payable to the complainant as compensation under Section 357 of Cr.P.C., and remaining Rs.10,000/- shall be defrayed towards State expenses; In default of payment of fine amount, the

Digitally Signed By:
K B GEETHA



CNR: KAHC010607322024

NC: 2026:KHC:54819
CRL.RP No. 1654 of 2024

accused shall undergo simple imprisonment
for six (6) months.

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(GEETHA K.B.)
JUDGE

SPV,SSD
List No.: 2 Sl No.: 1