



CNR: KAHC010693462025

NC: 2026:KHC:48597
CRL.RP No. 1586 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO. 1586 OF 2025

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. V RAGHU RAJU
S/O LATE VENTAKESH,
AGED ABOUT 49 YEARS,
R/AT NO.8, 8TH CROSS, OM SHIVA SHAKTHI
NAGARA, CHUNDANAGATTA MAIN ROAD,
KONANAKUNTE POST,
BENGALURU- 560 041

...PETITIONER

(BY SRI. RAVI M.M, ADVOCATE)

AND:

1. RAMACHANDRA G
S/O LATE M.GUNDAPPA,
AGED ABOUT 62 YEARS,
R/AT NO.505, 19TH MAIN, 4TH T BLOCK,
JAYANAGAR, BENGALURU-560 062.

...RESPONDENT

(BY SRI. PRAVEEN C.,ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C (U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE IMPUGNED JUDGEMENT DATED 22.09.2025 PASSED IN CR.A. 292/2021 BY THE LX ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-61) AND THE

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Location:
HIGH
COURT OF
KARNATAKA



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IMPUGNED JUDGEMENT AND ORDER OF CONVICTION DATED 03.03.2020 PASSED IN CC.NO.7743/2018 BY THE XXII ADDL. CMM, BENGALURU CONVICTED THE PETITIONER FOR THE OFFENCE P/U/S. 138 OF N.I. ACT AND SENTENCE TO PAY FINE OF RS.13,30,000/- TO THE COMPLAINANT AND OUT OF THE TOTAL COMPENSATION/FINE AMOUNT A SUM OF RS.2,000/- SHALL BE PAID TO THE STATE AS FINE AND IN DEFAULT ACCUSED SHALL UNDERGO SIMPLE IMPRISONMENT OF SIX MONTHS. CONSEQUENTLY ACQUIT THE PETITIONER.

THIS PETITION, COMING ON FOR ADMISSION, 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 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS, 2023') by the revision petitioner/accused praying for setting aside the impugned judgment dated 22.09.2025 passed in Criminal Appeal No.292/ 2021 on the file of LX Additional City Civil and Sessions Judge, Bengaluru (CCH-61) (hereinafter referred as 'Appellate Court') and the impugned Judgment and Order of Conviction dated 03.03.2020 passed in CC No. 7743/2018 on the file of XXII Additional Chief Metropolitan Magistrate, Bengaluru, (hereinafter referred as 'Trial Court') convicting the petitioner for the offence

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punishable under Section 138 of Negotiable Instruments Act, 1881 (in short 'NI Act') and sentenced to pay fine of Rs.13,30,000/- to the complainant; out of said compensation a sum of Rs.2,000/- shall be paid to the State as fine and in default shall undergo simple imprisonment of 6 months and to acquit the petitioner.

2. Parties would be referred with their ranks as they were before the Tribunal for sake of convenience and clarity.
3. The case of complainant in nutshell is that, the accused was working as driver with the complainant; at that time, accused approached the complainant and availed total loan of Rs.14,50,000/- on 4 occasions i.e., on 05.05.2016, 12.05.2016, 07.09.2016 and 23.09.2016; a sum of Rs.1,50,000/-, Rs.2,00,000/-, Rs.2,00,000/- and Rs.9,00,000/- respectively with an assurance to return the same. Subsequently, when complainant demanded for repayment, accused has issued the cheques bearing Nos.758552 and 758553 dated 23.01.2018 and 24.01.2018 for a sum of Rs.10,00,000/- and Rs.3,00,000/- respectively drawn on State Bank of India,

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RBI Layout Branch, Bengaluru. Complainant presented those cheques on 08.02.2018, but they were dishonored. on 14.02.2018 as 'Funds Insufficient'. Thereafter, complainant has issued legal notice dated 16.02.2018 to the accused calling upon him to repay the amount covered under those cheques. In spite of service of notice, he failed to give reply and not repaid the cheque amount. Hence, the complainant has filed private complaint before the Trial Court. After recording sworn statement, cognizance of the offence punishable under Section 138 of NI Act was taken by the Trial Court. Accused appeared and conducted the trial. After completion of trial, the statement of accused under Section 313 of Cr.P.C., was recorded. Then accused has led the defence evidence. After hearing arguments, the Trial Court came to the conclusion that accused has committed the offence punishable under Section 138 of NI Act and directed him to pay the compensation of Rs.13,30,000/-.

4. Aggrieved by said judgment of conviction, accused has preferred the appeal before the appellate Court. After

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hearing both sides, the appellate Court has dismissed the appeal by confirming the judgment of conviction and order of sentence by giving detailed reasons. Said judgments are under challenge in this revision petition.

5. Heard arguments of both sides.
6. The learned counsel for the revision petitioner Sri Ravi.M.M would submit that the accused worked as personal driver of complainant from 1996 to 2017. In that period, whenever the complainant requires money, he was issuing cheques to the accused who in turn withdrawing the amount from the bank, handing over the money to the complainant. This fact is clearly admitted by the complainant in his cross-examination. According to the complainant, he lent money to accused in the year 2016. But a suggestion was put to accused that in the year 2015, accused has issued these two cheques and accused admitted this fact. Hence, there is no consonance between the documents produced by the complainant and cross-examination of the accused. The cheques issued to the accused by the complainant were



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misused and a false case is filed against the accused. However, the Trial Court and the appellate Court have not appreciated the evidence in proper perspective and hence, pray for allowing the revision petition.

7. The learned counsel for the respondent Sri Praveen.C would submit that accused was working as driver under the complainant for several years and developed trust with the complainant. Accused has requested for hand-loan for his personal immediate problems. Considering this fact, the complainant has given loan to the accused and it is through bank cheques only. This fact is evidenced by Ex.P.8, the passbook of complainant. In the entries of passbook it is noted that several self-cheques were withdrawn by the complainant. The complainant never issued cheques in the name of accused to withdraw for his personal purpose. But he was issuing only self-cheques/bearer cheques and it is admitted by the complainant in his cross-examination. Further, accused in his affidavit evidence has stated that he has issued the cheques in question to the complainant in the year 2017.

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Hence, his admission in the cross-examination that, in the year 2015 they were issued by him has no consequence. Considering these aspects, the Trial Court has convicted the accused, which is confirmed by the appellate Court, which requires no interference. The powers vested under Section 442 of BNSS, 2023 are very limited with this Court. Hence, no such perversity is established by the revision petitioner to interfere with the judgments of Trial Court as well as appellate Court. Hence, prayed for dismissal of petition.

8. 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 any perversity or gross erroneous finding or glaring unreasonable, wholly unreliable, untenable points in the judgment of the Trial Court as well as the appellate Court?"

Finding of this Court on above point is in '**Negative**' for the following:

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REASONS

9. The revisional jurisdiction of this court is very limited. In this regard, this court places reliance on the recent judgment of the Hon'ble Apex Court in ***Kuntegowda v/s Thurubaiah in Criminal Appeal No..2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** wherein in paragraph 7.3 it is held as follows :

" 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 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."

10. Thus, only if the finding of the trial Court and appellate Court is perverse, grossly erroneous, glaringly

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unreasonable, wholly unreliable or untenable or it has not considered the relevant material; or it has considered the material which is immaterial or no material at all while passing the judgment; wholly unreliable, untenable or relevant material facts were not at all considered or the judicial discretion was exercised arbitrarily and capriciously or irrelevant materials are considered by the trial Court as well as appellate Court, then the revision petition can be entertained then and then only this Court can interfere with the order passed by the trial Court confirmed by the appellate Court. When there is concurrent finding by both the Courts, the revisional Court cannot give its own reasoning to set aside those judgments until and unless they are perverse or for any other reasons mentioned in the aforesaid paragraph.

11. 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;

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(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 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 had 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;

(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.

12. If the aforementioned ingredients are satisfied then the person who has drawn the cheque shall be deemed to

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have committed an offence as there exist presumption under section 118 and 139 of the NI Act.

13. With this background, the facts of the present case are to be analysed.
14. The complainant has filed the private complaint before the Trial Court which is registered as CC after recording his sworn statement. In that complaint, complainant has taken specific contention that accused was employed as driver under him and during that period, accused has taken financial assistance of totally Rs.14,50,000/- from the complainant on 4 occasions i.e., on 05.05.2016, 12.05.2016, 07.09.2016 and 23.09.2016 a sum of Rs.1,50,000/-, Rs.2,00,000/-, Rs.2,00,000/- and Rs.9,00,000/- respectively and out of said amount, accused has repaid Rs.1,50,000/- and issued two cheques for the remaining amount and when they were presented for encashment on 14.02.2018, they were returned with endorsement as 'funds insufficient'. The legal notice was issued on 16.02.2018 and it was served

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on accused on 21.02.2018 and then the private complaint was filed within the prescribed period of limitation.

15. In the instant case, all the above ingredients are fulfilled because the cheques are dated 23.01.2018 and 24.01.2018, respectively Immediately those cheques were presented for encashment in February-2018. They were returned on 14.02.2018 with endorsement 'funds insufficient'. The legal notice was issued to the accused on 16.02.2018 and it is served upon him on 21.02.2018. 15 days afterwards, the present case was filed within 30 days i.e. on 21.03.2018. Hence, all the necessary ingredients of Section 138 of NI Act are fulfilled.
16. Accused is not disputing the signature on the cheques. He has admitted that he has signed those cheques.
17. Section 118 lays down certain special rules of evidence relating to presumptions akin to Section 114 of the Indian Evidence Act, 1872 (Section 119 of Bharatiya Sakshya Adhiniyam, 2023). The rationale behind these presumptions is that negotiable instruments such as cheque are passed from hand to hand on endorsement



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and therefore it would make trading very difficult and negotiability of instruments impossible, unless certain presumptions are made.

18. Under Section 118(a) of the NI Act, until the contrary is proved, presumption shall be made that every negotiable instrument was made for a consideration. Once there is admission that the execution of a cheque or the same is proved to have been executed, the presumption under Section 118(a) is raised that it is supported by consideration. Similar presumptions are made in the sub-clauses (b) to (g) of Section 118. Presumption under Section 118(b) relates to the date on which negotiable instruments were and statutory presumption is that the said instrument was drawn or made on such date unless the contrary is proven. With respect to the time of acceptance, it is presumed under Section 118(c) of the NI Act that every bill of exchange including bill of exchange payable on demand was accepted within a reasonable time after its issue or before its maturity until the contrary is proven.

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19. There shall be presumption under Section 139 of the NI Act. The presumption as envisaged under Section 139 is a statutory and mandatory presumption and not a discretionary one. Under Section 139 of the NI Act, there is presumption that the holder of the cheque has received it for the discharge of debt or other liability.
20. But these presumptions under Section 118 and 139 of NI Act are rebuttable presumptions and accused can rebut these presumptions by cross-examining the complainant and also by leading his own evidence.
21. In instant case, the complainant was cross-examined in length on several occasions and accused also led his evidence. In that evidence, accused has only elicited from the mouth of complainant that complainant was issuing self cheques/bearer cheques to the accused and his father-in-law was also getting bank transactions through accused and occasionally, the complainant through the accused to cash cheques that belonged to other individuals. Except these facts, nothing was elicited from

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the cross-examination of complainant pertaining to this case.

22. Several other facts were elicited regarding the job of complainant, his retirement, he resides in US, he files case against others etc., which are not relevant to the present case.
23. The complainant never admitted in his cross-examination that, he was issuing cheques in the name of accused to withdraw his amount from the bank. He has deposed only through 4 cheques mentioned in the private complaint, he has lent money to the accused and accordingly, for repayment of said amount, accused has issued the cheques in question as per Exs.P1 and P2 in this case.
24. Considering these aspects, rightly, the accused was convicted by the Trial Court, which is confirmed in the appellate Court. When there is concurrent finding of both courts, the jurisdiction of this Court is very limited as discussed above. The presumption in favour of the complainant is already substantiated from the documents produced by the complainant. Accused has not rebut the



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presumptions available in favour of complainant under Section 118 of the NI Act and 139 of the NI Act. Hence by placing a reliance on the ***Kuntegowda's case cited supra***, this Court holds that the revision petition is not entertainable. Accordingly, this Court passes the following:

ORDER

(i) The Criminal Revision Petition is ***dismissed***.

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**(GEETHA K.B.)
JUDGE**

SPV
List No.: 1 SI No.: 17