



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 174 OF 2025 (A)

BETWEEN:

A M PRASANNA
SON OF LATE MNANUNATHA GOWEDA
AGED ABOUT 64 YEARS
RESIDENT OF HEECHAHALLI ESTATE
HALEKRE VILALGE AND POST
GONIBEEDI HOBLI, MUDIGERE TALUK
CHIKKAMAGALURU DISTRICT-577 132

...APPELLANT

(BY SRI. SHANKARANARAYANA BHAT N, ADVOCATE)

AND:

SRI A R RAJANNA
SON OF NOT KNOWN
AGED ABOUT 60 YEARS
COFFE PLANTER
KEMBATMAKKI ESSTATE
JOGANAKERE POST
MUDIGERE TALUK
CHIKKAMAGALURU DISTRICT 577132

...RESPONDENT

(VIDE ORDER DATED 20.02.2026 NOTICE TO
RESPONDENT IS DISPENSED WITH)

THIS CRL.A IS FILED U/S 378(4) OF CR.PC (FILED U/S
419(4) OF BNSS) PRAYING TO SET ASIDE THE IMPUGNED
ORDER / JUDGMENT IN C.C.NO.1079/2021 ON THE FILES OF

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by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



THE PRL. CIVIL JUDGE AND JMFC, MUDIGERE DATED 17.05.20232.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the order dated 17.05.2023 passed in C.C.No.1079/2021 by the Principal Civil Judge and JMFC, Mudigere (for brevity, 'the Trial Court').

2. The brief facts leading to this appeal are that the appellant/complainant had filed complaint under Section 138 of the Negotiable Instruments Act, 1881. After taking cognizance, the case was registered in C.C.No.1079/2021 and summons was issued to the accused. In response to the summons, the accused appeared before the Trial Court and was released on bail.

3. The substance of accusation was framed. The accused pleaded not guilty and claimed to be tried. Then case was posted for evidence. On 17.05.2023, the Trial Court passed the following order:



"Complainant is absent. Accused present. Perused order sheet. It is evident that today has given last opportunity to the complainant to adduce evidence. Whereas, complainant not appeared before the court. Hence, call again 3.00 p.m.

Case called out again 3.00 p.m. Accused present. Complainant is called out, absent.

Perused the materials and order sheet. It is evident that the present complaint is filed by the complainant for the offence punishable under section 138 of NI Act against the accused. Herein the this case on 13.07.2022, the plea has been recorded and read over to the accused. Then case was posted for complainant evidence on 04.08.2022.

On 04.08.2022, again accused was present, but the complainant was present. Hence, the matter was adjourned on 24.08.2022 for same stage. On that day also, accused present, but the complainant and his counsel were remained absent. Hence, the matter was posted on 21.09.2022. On that day, again the complainant was absent and hence, the matter was posted on 18.10.2022



for complainant evidence finally as last chance.

Further, on that day also, the complainant was remained absent and hence, the matter was posted for same stage on 16.11.2022. On that date, accused was present and the counsel for the complainant submits that the complainant was hospitalized due to his ill health. Hence, another four opportunity have been given. On 21.04.2023, when the case was set-down for complainant evidence, the Advocate of the complainant retired with the consent of the court and the complainant who present on that day seeks time to appoint another counsel and to adduce evidence and hence, the case was posted to this day.

But today also, the complainant not turned up to the court even the case was called at twice. By looking into the order sheet court can infer that there are sufficient opportunities have been given to the complainant to adduce his evidence since 13.07.2022 to till day. In spite of sufficient opportunities, complainant has not interested in prosecuting the case. Therefore, the



complaint filed by the complainant is hereby dismissed for non-prosecution."

4. Being aggrieved by this order, the appellant/complainant has preferred this appeal.

5. The learned counsel for the appellant submits that on the date of passing the impugned order, the complainant was suffering from medical casualties and was unable to attend the Court on few dates of hearing. The counsel for the appellant was always present and represented, submitting the health aspect of the appellant. Hence, he could not appear before this Court.

6. Accepting the submissions of the learned counsel for the appellant, it is just and proper to provide one more opportunity to the complainant to lead evidence. Accordingly, I proceed to pass the following:

ORDER

i. The appeal is ***allowed***.

ii. The impugned order dated 17.05.2023 passed by the Principal Civil Judge and JMFC, Mudigere in



C.C.No.1079/2021 is set aside. The C.C.No.1079/2021 shall be restored.

iii. The complainant is directed to appear before the Trial Court on **02.04.2026** without seeking any further notice from the Trial Court.

iv. The Trial Court is directed to secure the presence of the accused and to proceed with the case in accordance with law.

Registry is directed to send the copy of this order to the Trial Court.

SD/-
(G BASAVARAJA)
JUDGE

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List No.: 1 SI No.: 4