IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

CRIMINAL REVISION PETITION NO. 100341 OF 2024

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

BETWEEN:

SHIVALINGAPPA S/O. MAHADEVAPPA VADAKANNAVAR,
AGE: 62 YEARS, OCC: AGRICULTURE AND CONTRACTOR,
R/O. PASHUPATIHAL, TQ: KUNDAGOL,
DIST: DHARWAD-581113.

...PETITIONER

(BY SRI. SADIK KANVI, ADVOCATE)

AND:

RUDRAMUNI S/O. SHANTAVEERAPPA KATAGI,
AGED ABOUT 45 YEARS, OCC: AGRICULTURE AND BUSINESS,
PASHUPATIHAL, TQ: KUNDGOL,
DIST: DHARWAD-581113.

...RESPONDENT

(BY SRI. GOURISHANKAR MOT, ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH 401 OF CR.P.C. (438 R/W 442 OF BNSS), SEEKING TO

A. CALL FOR THE RECORDS IN C.C. NO.785/2020 PASSED BY THE LEARNED CIVIL JUDGE AND JMFC, KUNDGOL, AND THE JUDGMENT AND ORDERS DATED 2ND AUGUST 2024 IN CRL. APPEAL NO.5124/2023 PASSED BY THE LEARNED I-ADDITIONAL DISTRICT AND SESSIONS JUDGE, DHARWAD SITTING AT HUBBALLI.

B. SET ASIDE THE IMPUGNED JUDGMENT AND CONVICTION ORDER PASSED BY THE LEARNED CIVIL JUDGE AND JMFC, KUNDGOL, IN C.C. NO.785/2020 DATED 11.10.2023 AND THE DISMISSAL OF THE APPEAL BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, DHARWAD, SITTING AT HUBBALLI, IN CRL. APPEAL NO.5124/2023, AND THEREBY ACQUIT THE PETITIONER OF THE CHARGES UNDER SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT.

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C. ALTERNATIVELY REMAND THE MATTER FOR FRESH TRIAL, GIVING THE PETITIONER AN OPPORTUNITY TO LEAD FURTHER DEFENCE EVIDENCE, EXAMINATION OF HANDWRITING EXPERTS TO VERIFY THE ALLEGED SIGNATURE ON THE CHEQUE AND SUMMONING OF RELEVANT BANK OFFICIALS TO TESTIFY REGARDING THE ACCUSED'S CLAIM THAT THE CHEQUE WAS RETURNED AND MISUSED.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR)

This petition is filed by the petitioner/accused challenging the Judgment of conviction and order of sentence dated 11.10.2023 passed in Criminal Case No.785/2020 by the Civil Judge and JMFC, Kundgol confirmed in Criminal Appeal No.5124/2023 by the Judgment dated 02.08.2024 passed by the I Additional District and Sessions Judge, Dharwad sitting at Hubballi.

2. The petitioner is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') and sentenced to pay fine of Rs.3,10,000/- in default of payment to undergo simple imprisonment for one year. Aggrieved by the same, petitioner preferred an appeal in

Criminal Appeal No.5124/2023 before the Sessions Court, which dismissed the appeal and confirmed the Judgment and order of conviction passed by the trial Court. Hence, the petitioner is before this Court challenging the same.

3. During pendency of this petition, petitioner/ accused and the respondent/complainant filed an application under Section 147 of the N.I.Act to compound the offence. It is stated in the application that the petitioner and respondent have agreed to compound the offence for a total sum of Rs.2,05,000/- of which Rs.60,000/- was deposited on 02.12.2023 and Rs.90,000/- was deposited as per the order of this Court dated 27.09.2024 before the trial Court. The petitioner also has paid a sum of Rs.55,000/- to the respondent. Hence, in all Rs.2,05,000/- is paid and deposited to the respondent/Court as agreed.

4. It is submitted by respondent/complainant that he does not have any objection for the petitioner being acquitted of the charges for the offence under Section 138

of the N.I. Act by setting aside the Judgment of conviction rendered against him. Under the circumstances, when both parties have filed application to compound the offence, which is permissible under the N.I.Act. The said application is accepted. Accordingly, I pass the following :

ORDER

(i) Petition is disposed off

(ii) The Judgment of conviction and order of sentence dated 11.10.2023 passed in Criminal Case No.785/2020 by the Civil Judge and JMFC, Kundgol confirmed in Criminal Appeal No.5124/2023 by the Judgment dated 02.08.2024 passed by the I Additional District and Sessions Judge, Dharwad sitting at Hubballi, is hereby set aside.

(iii) The petitioner/accused is acquitted for the offence punishable under Section 138 of N.I. Act.

(iv) The respondent/complainant acknowledges the receipt of Rs.55,000/- and sum of Rs.60,000/- and Rs.90,000/- has been deposited before the trial Court.

(v) The trial Court shall disburse the amount so deposited by the petitioner/accused to the respondent/complainant.

(vi) Bail bond and surety bond of petitioner/accused stand cancelled.

(vii) Ordered accordingly.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

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List No.: 2 Sl No.: 2