HC-KAR

NC: 2026:KHC:61989
WP No. 684 of 2022

CNR: KAHC010017572022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 684 OF 2022 (GM-RES)

BETWEEN:

MR. SUNESH KUMAR
AGED ABOUT 46 YEARS,
S/O LATE DHANYA KUMAR,
R/AT KADAMBU HOUSE,
GURUVAYANAKERE VILLAGE AND POST,
BELTHANGADY TALUK - 574 217.

...PETITIONER

(BY SRI. SACHIN B S.,ADVOCATE)

AND:

NIDDODI CREDIT CORPORATION
NINAN COMPLEX,
NELYADI, NELYADI POST,
PUTTUR TALUK,
D.K.DISTRICT - 574 229.
THE PROPRIETORSHIP
MONEY LENDING CONCERN,
REPRESENTED BY ITS PROPRIETOR,
K.RAVINDRA PRABHU,
S/O GOVARDAN PRABHU,
AGED ABOUT 54 YEARS,
NO.34, NEKKLADI VILLAGE,
PUTTUR TALUK,
D.K.DISTRICT - 574 229.

...RESPONDENT

(BY SMT. SANDHYA U. PRABHU.,ADVOCATE)

Digitally signed by SUMA B N
Location: HIGH COURT OF KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA R/W SEC. 482 OF CR.PC PRAYING TO QUASH THE IMPUGNED ORDER DATED 19.11.2021 IN C.C.NO.373/2013 ON APPLICATION FILED BAY THE RESPONDENT UNDER SECTION 311 OF CRPC ON THE FILE OF COURT OF PRINCIPAL CIVIL JUDGE AND JMFC PUTTUR D.K.DISTRICT AS PER THE ANENXURE-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri. Sachin B.S., learned counsel for the petitioner and Smt. Sandhya U. Prabhu, learned counsel for the respondent.

2. Petitioner herein is the accused who has challenged the order allowing the application filed under Section 311 Cr.P.C in a trial for the prosecution of the offence under Section 138 of the Negotiable Instruments Act, 1881.

3. Grievance of the petitioner herein is that by virtue of the recall of the witness-respondent herein, who is the complainant before the trial Court wants to bring-in inadmissible evidence by placing the secondary evidence on

record and therefore the order of the trial Court marked at Annexure-A needs to be set-aside.

4. Smt. Sandhya U. Prabhu, learned counsel for the respondent would support the impugned order by contending that the right of cross-examination is reserved before the trial Judge in the impugned order. Therefore, writ petition is to be dismissed.

5. Having heard the arguments of both sides, this Court noted that the right to lead further evidence is engrafted in the Cr.P.C. under Section 311 Cr.P.C with an intention to do complete justice in a given matter and the language employed in the said Section itself shows that at any stage of the trial, application under Section 311 Cr.P.C, can be entertained and if the Court is of the opinion that the case deserves for placing additional evidence or recalling a witness to lead further evidence, such applications must be construed liberally.

6. In view of the same, there cannot be any dispute that the discretionary power vested in the trial Magistrate has been rightly exercised in the case on hand.

7. However, the apprehension of the petitioner who is the accused before the trial Court that by virtue of recalling the witness the complainant wants to bring in the inadmissible evidence has got some force and the same needs to be protected by making suitable observation.

8. Accordingly, this Court hereby observes that by recalling the witness, the evidence which is inadmissible cannot be allowed to be placed on record, if any, objections are made by the accused in this regard with regard to the inadmissibility, learned trial Magistrate shall consider the same and pass appropriate orders in accordance with law, especially while considering the secondary evidence.

9. With that observation, following:

ORDER

Petition stands ***dismissed***.

SD/-
(V SRISHANANDA)
JUDGE

RL/- List No.: 1 Sl No.: 58