NC: 2026:KHC:18186
CRL.RP No. 199 of 2021

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 199 OF 2021

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

BETWEEN:

SRI. T. MADHUSUDHANA TOKOLA
AGED ABOUT 46 YEARS,
S/O. SRI. T. SIDDAIAH,
R/AT NO. 28/2, SKIB LAYOUT,
ANU K. NILAYA, K. NARAYANAPURA,
KOTHANUR POST,
BENGALURU-560 077.

PRESENTLY RESIDING AT
NO.253, KNP,
OPP: FERENCY RESIDENCY,
GATE NO.2,
K. NARAYANAPURA,
BENGALURU-560 077.

...PETITIONER

(BY SRI. H MALATESH., ADVOCATE)

Digitally signed by KIRAN KUMAR R
Location: HIGH COURT OF KARNATAKA

AND:

SRI. M. NAGABHUSHANA REDDY
S/O. SRI. M. RAMI REDDY,
AGED ABOUT 55 YEARS,
R/AT B-211, SNS ARCADE, OLD AIRPORT ROAD,
BENGALURU-560 017,
REP. BY HIS GENERAL POWER OF ATTORNEY

HOLDER,
SRI. C. M. KRISHNAPPA,
AGED ABOUT 48 YEARS,
S/O. LATE CHINNA MUNIYAPPA,
R/AT NO.011, G FLOOR,
DS MAX APARTMENTS,
K. NARAYANAPURA,
BENGALURU-560 077.

…RESPONDENT

(BY SRI. VINOD REDDY V., ADVOCATE)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO 1.SET ASIDE THE JUDGMENT OF CONVICTION DATED 03.08.2019 PASSED BY THE XIV A.C.M.M., MAYO HALL, BENGALURU IN C.C.NO.58542/20182. SET ASIDE THE JUDGMENT DATED 10.02.2021, PASSED BY THE LXXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU IN CRL.A.NO.25208/2019 AND ACQUIT THE ACCUSED AND REMAND THE CASE BY ALLOWING THE PETITION.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri. H.Malatesh, learned counsel for the revision petitioner and Sri. Vinod Reddy.V, learned counsel for the respondent.

2. Accused has suffered an order of conviction in CC No.58542/2018 dated 03.08.2019 passed by the Court of XIV Addl. Chief Metropolitan Magistrate, Bengaluru for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, confirmed in Crl.Appeal No.25208/2019 vide judgment dated 10.02.2021 by the Court of LXXIV Addl. City Civil and Sessions Judge, Bengaluru.

3. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

3.1. A private complaint under Section 200 of Cr.PC was lodged against the revision petitioner by the complainant alleging that, he has committed an offence punishable under Section 138 of the Negotiable Instruments Act.

3.2. According to complaint averments, accused borrowed loan of ₹30,00,000/- from the complainant in

the month of May 2016 for purchase of Mayura Channel agreeing to repay the amount with interest at the rate of 2% per month and thereafter, accused repaid sum of ₹10,50,000/- towards the principal amount and interest, but failed to repay the entire loan amount. It is further contented that, on 06.06.2016, accused and his wife executed a sale agreement in respect of the site belonging to them for sale consideration of ₹30,00,000/- and received ₹10,00,000/- as advance amount from the complainant.

3.3. On demand for settlement of the claim, the accused negotiated with the complainant to reduce the total amount payable by him, and after due negotiation, by way of mutual agreement, it was agreed that sum of ₹33,00,000/- is to be paid by the accused as full and final settlement in respect of all the dues of accused with the complainant and mutual agreement was also executed in this regard on 04.04.2018. Accused, pursuant to the said mutual agreement, issued four cheques as under:

a) Cheque No.614770 dated 15.04.2018 for ₹5,00,000/-

b) Cheque No.614771 dated 30.05.2018 for ₹9,00,000/-

c) Cheque No.614772 dated 30.06.2018 for ₹9,00,000/-

d) Cheque No.614773 dated 30.07.2018 for ₹10,00,000/-

Those cheques, on presentation, came to be dishonoured with endorsements 'payment stopped by the drawer' and 'funds insufficient'.

3.4. Legal notice was caused on 09.08.2018 calling upon the accused to pay the amount covered under the cheques. The legal notice was not claimed by the accused, but he got issued a reply notice on 23.08.2018, but failed to comply the callings of notice resulting in filing the complainant to take action against the accused per the offence punishable under Section 138 of Negotiable Instruments Act.

4. Learned Trial Magistrate, on receipt of the complaint, completed the necessary formalities and

thereafter, summoned the accused and recorded the plea. Accused pleaded not guilty. Therefore, trial was held.

5. In order to prove the case of the complainant, he got examined himself as CW1 and placed on record twenty-seven documents which were exhibited and marked as Exs.P1 to P27 comprising of general power attorney, mutual agreement dated 04.04.2018, four cheques with necessary bank endorsements, copy of the legal notice, postal receipts, courier receipt, returned RPAD cover, acknowledgments, reply notice, agreement of sale, acknowledgment of registration of firms, mutual agreement dated 30.11.2016, letter of understanding, certified copy of the FIR, statement of account, income tax returns. As against the material evidence placed on record by the complainant, accused got examined himself as DW1 and placed on record eight documents comprising of certified copy of the letter dated 03.03.2018, stop payment letter dated 17.05.2018, postal receipt, letter to the Commissioner of Police, papers in WP No.658/2018,

certified copy of the order sheet, certified copy of the PCR No.55548/2018, certified copy of the Crl.P No.2290/2018.

6. Learned Trial Magistrate, on conclusion of the recording of evidence, proceeded to record the accused's statement and thereafter, heard the arguments of the parties, and convicted the accused and sentenced him as under:

> "***ORDER***
>
> *Acting under Section 255(2) of Cr.PC accused is hereby convicted for the offence punishable under Section 138 of Negotiable Instrument Act. The accused shall pay a fine of Rs.35,00,000/- for the offence punishable U/s. 138 of N.I. Act. In default of payment of fine amount, the accused shall under go simple imprisonment for a period of one year.*
>
> *By exercising the power conferred U/s.357(1) of Cr.PC., out of total fine amount of Rs.35,00,000/-, a sum of Rs.34,95,000/- is ordered to be paid to the complainant as compensation and Rs.5,000/- is ordered to be remitted to the State.*
>
> *The bail bond of the accused stands cancelled. The cash security deposited by the accused is ordered to be continued till expiry of the appeal period."*

7. Being aggrieved by the same, accused filed an appeal before the First Appellate Court in Crl.Appeal No.25208/2019.

8. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material evidence on record, dismissed the appeal *inter alia* holding in paragraph Nos.22 to 25 as under:

> *"22. The main defence of the accused is that, after entering into Ex.P.20 Agreement of sale, the complainant came to know about notification issued for the acquisition of the site which he agreed to purchase under the said agreement. He demanded the accused and his wife to repay the advance amount. Accordingly they paid Rs. 10,50,000/- to the complainant. Though he repaid advance amount of Rs. 10,00,000/- with additional Rs.50,000/- as demanded by complainant, he (complainant) did not execute Deed of cancellation. After the Hon'ble High Court of Karnataka cancelled the notification issued for acquisition of site which complainant agreed to purchase under Ex.P.20 Agreement of Sale and having regard to the increase in value of the said site, the complainant started putting pressure on him to sell the said site to him. Therefore he*

gave Ex.D.1 (P.24) false complaint against him and his wife and by using his influence, he pressurized him through Police to execute the sale deed of the said site to him.

23. In Ex.P.2 Mutual Agreement, it is specifically stated that, the dispute between the complainant and accused in respect of advancement of loan of Rs.30,00,000/-and also regarding Ex.P.20 Agreement of sale was resolved for a sum of Rs.33,00,000/-. As contended by the accused, if the complainant is having an eye on the site which he agreed to purchase under Ex.P.20 Agreement and for that purpose he would have given false complaint to the police and managed to take the signatures of the accused on blank papers, he could have prepared documents to get a decree of specific performance of Ex.P.20 Agreement of sale and there was no necessity for the complainant to make Ex.P.2 Mutual Agreement which virtually terminates Ex.P.20 Agreement of Sale. Therefore the contention of accused that, to get the sale deed of valuable site, the complainant gave false complaint against him and pressurized him through police to execute the sale deed, cannot be accepted.

24. Accused is not a layman. He is well educated person having worldly, business and legal knowledge. In the cross examination, he admitted that, in addition to this case, there are/were other criminal cases against him. Accused in his evidence has stated that, when the

complainant demanded him to repay advance amount of Rs. 10,00,000/-after he came to know about issuance of notification for acquisition of site which he agreed to purchase under Ex.P.20 Agreement of sale, he agreed for the same and deposited Rs.6,00,000/- into bank account of complainant's daughter. He stated that, after depositing Rs.6,00,000/- into bank account of complainant's daughter, the complainant agreed to execute a registered deed cancelling Ex.P.20 Agreement of sale by receiving Rs.4,00,000/- at the time of registration. Further he stated that, when he informed the complainant that, he is ready to pay remaining amount of Rs.4,00,000/- and called upon him to execute registered deed, cancelling Ex.P.20 Agreement of sale, the complainant informed him that, he is in Himachal Pradesh, therefore he is not in a position to come and receive the amount and directed him to pay the amount to his attorney holder i.e., PW1 Krishnappa. Accordingly, he paid Rs.4,00,000/- to Krishnappa. Accused has not stated, when he paid Rs.4,00,000/- to Krishnappa. In the cross examination at page No.11 he stated that, at the time of making payment of Rs.4,00,000/-, PW1 Krishnappa has executed a document acknowledging the receipt of the said amount. Accused has stated that, he produced the said document to the Court. But he has not produced the said document to the Court. In the cross examination of PW1, the learned counsel for the accused has made a suggestion that, as per the instructions given

by the complainant, accused paid Rs.4,00,000/- to him regarding cancellation of Ex.P.20 Agreement of sale. PW1 has denied the said suggestion. Accused has not produced any document to show that, before Ex.P.2 Mutual Agreement was made, complainant or his attorney executed any document regarding cancellation/ termination of Ex.P.20 Agreement of sale or the accused issued any notice to the complainant calling upon him to cancel the said Agreement of sale. Thus from the material on record would show that, the dispute between complainant and accused regarding Ex.P.20 Agreement of Sale and advancement of loan of Rs.30,00,000/- was mutually resolved by making Ex.P.2 Mutual Agreement.

25. Complainant has given Ex.D.1 (P.24) complaint to the SHO of Kothanur Police Station on 03/03/2018. Accused has stated that, after registration of the said case, he filed petition for anticipatory bail. The learned counsel for the accused has submitted that, the Sessions Court rejected the bail petition. Therefore he filed Criminal Petition before the Hon'ble High Court of Karnataka and obtained bail. Thus from the material on record it is evident that, on 17/03/2018 on which date the Kothanur Police alleged to have called accused and his wife to the police station, pressurized him to execute sale deed and also taken signatures on the blank stamp papers and cheques, the accused was in touch with his counsel to get anticipatory bail. When such is the case,

nothing prevented him to immediately lodge complaint against police officer who helped the complainant and his attorney holder to get signature on the blank stamp papers and cheques."

9. Being further aggrieved by the same, accused is before this court in this revision petition.

10. Sri. Malatesh, learned counsel for the revision petitioner, reiterating the grounds urged in the petition would contend that, both the Courts have not properly appreciated the material evidence placed on record and sum of ₹10,00,000/- repaid by the accused is not taken into account while passing the order of conviction and thus, sought for allowing the revision petition.

11. *Per contra*, Sri. Vinod Reddy learned counsel for the respondent would support the impugned judgments. He would further contend that, sum of ₹10,00,000/- said to have been paid by the accused is in respect of the earlier transaction, which has not been suppressed by the complainant inasmuch as the said payment was on

05.01.2017 and the mutual agreement is on 04.04.2018 and therefore, the payment made on 05.01.2017 cannot be pressed into service by the complainant and thus, sought for dismissal of the revision petition.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of the material on record, cheques issued by the accused as referred to supra are admittedly belonging to the accused and signatures found therein are that of the accused.

14. The complainant has specifically stated that, there was a loan transaction as well as a sale transaction between the complainant and accused involving the wife of the accused as well. However, when there was a default in payment of the loan amount, interest and also the non-registration of the site, the liability of the accused with the complainant was settled by entering into mutual agreement dated 04.04.2018 marked at Ex.P2.

15. According to the accused, a false police complaint was lodged by the complainant and accused was summoned to the Police Station and in the Police Station, under threat, signature of the accused was obtained on blank stamp papers as well as the cheques which have been misused by the complainant.

16. To substantiate the said aspect of the matter, there is no other material evidence on record except the oral testimony of the accused.

17. Since the cheques marked at Exs.P3 to P6 are belonging to the accused and signatures found therein are that of the accused, by virtue of the mutual agreement dated 04.04.2018, complainant enjoyed the presumption under Section 139 of the Negotiable Instruments Act.

18. The theory of the signatures being extracted on the blank stamp papers and blank cheques is not established by placing cogent evidence on record.

19. Moreover, on perusal of Exs.P3 to P6, all the necessary details in those cheques are filled up by the accused in his handwriting. Therefore, the learned Trial Magistrate was justified in holding that the defence evidence placed on record was not sufficient enough to rebut the presumption available to the complainant under Section 139 of the Negotiable Instruments Act.

20. Learned Judge in the First Appellate Court further dealt on the evidentiary and probative value of the documents that were placed on record, especially Ex.D1 in detail in the aforesaid paragraphs while re-appreciating the material evidence in the light of the grounds sought in the appeal memorandum filed by the accused.

21. After thorough discussion, learned Judge in the First Appellate Court has rightly concurred with the finding of guilt recorded by the Trial Magistrate holding that, the accused is liable for the offence punishable under Section 138 of the Negotiable Instruments Act.

22. This Court, having regard to the limited revisional jurisdiction, did consider the grounds urged in the revision petition, especially with regard to the payment of ₹10,00,000/-, which is urged before this Court with vehemence by Sri. Malatesh, learned counsel for the revision petitioner.

23. On such perusal of the material on record in the light of the argument put forth, admittedly, the payment of ₹10,00,000/- was made on 05.01.2017 through the bank account of Vijaya Bank, Kodigehalli Branch of the accused. 04.04.2018 is the date of mutual agreement whereunder the amount of ₹33,00,000/- is arrived at between the accused and complainant and the same is placed on record to substantiate that there was a legally recoverable debt under four cheques marked at Exs.P3 to P6.

24. Accused having taken a plea that the signatures were obtained on blank paper and the same has been misused, was expected to take necessary action against

the complainant for the alleged misuse of the blank stamp paper and blank cheques. Accused having failed to take any such action especially when he had the services of an Advocate wherein he has already obtained an anticipatory bail and appeared before the police for the purpose of investigation, it cannot be said that the accused is a layman who did not know the procedure of the Court.

25. Therefore, the learned Judge in the First Appellate Court holding that the accused is liable for the offence under Section 138 of the Negotiable Instruments Act, is just and proper.

26. When the theory of the misappropriation of the blank documents and blank cheques fails, the learned Trial Magistrate was justified in convicting the accused for the offence under Section 138 of the Negotiation Instruments Act, which has been rightly re-appreciated by the learned Judge in the First Appellate Court. Thus, the following:

ORDER

i. The revision petition is meritless and hereby ***dismissed***.

Sd/-
(V SRISHANANDA)
JUDGE

PA
List No.: 1 Sl No.: 40