HC-KAR

NC: 2026:KHC:63723
CRL.P No. 2071 of 2025

CNR: KAHC010080262025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 2071 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

1. M/S. LATHA MULTITECH ENTERPRISES
SHED NO. 14/SY NO. 112/2
12TH CROSS, DODDANNA
INDUSTRIAL ESTATE
LAGGERE VILLAGE
YESHWANTHAPURA HOBLI
BANGALORE 560091
REP BY ITS PROPRIETOR

2. MR. BHOJARAJU
AGED ABOUT 60 YEARS
SON OF LATE UGRE GOWDA
R/AT NO. 43 35TH CROSS
2ND BLOCK, RAJAJAINAGAR
BANGALORE 560010

...PETITIONERS

(BY SRI. MITTY NARASIMHA MURTHY.,ADVOCATE)

AND:

MR.S.N.MOHAN KUMAR
S/O SRI NARAYANAPPA
R/AT DAVALAGIRI
NO. 1399 8TH BLOCK
SIR M VISWESHWARAAIAH
BDA LAYOUT
BANGALORE 560091

...RESPONDENT

(RESPONDENT-SERVED)

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THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO CALL FOR THE RECORDS ON THE FILE OF THE LXIII ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-64) AT BENGALURU, AND TO QUASH THE ORDER DATED 05.10.2024 AND CONSEQUENTLY QUASH THE ORDER DATED 09.02.2022 AND 29.04.2022 ON THE FILE OF TH XXII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BANGALORE, AND CONSEQUENTLY, DISMISS THE COMPLAINT FILED BY THE RESPONDENT IN C.C.NO.13420/2022 AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. A memo enclosing the notice dated 08.02.2022 has been filed. The same is taken on record.

2. The petitioners are before this Court seeking for the following reliefs:

   a. *Call for the records on the file of the LXIII Addl. City Civil and Sessions Judge (CCH-64) at Bengaluru, and to quash the order dated 05.10.2024 and consequently quash the order dated 09.02.2022 and 29.04.2022 on the file of the XXII Additional Chief Metropolitan Magistrate at Bangalore, and consequently, dismiss the complaint filed by the respondent in c.c.no.13420/2022.*

   b. *To grant such other relief's as this Hon'ble Court deems fit to grant in the facts and circumstances of the case, in the interest of justice and equity.*

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3. Respondent No.2 instituted PCR No.3467/2022 under Section 200 of the Code of Criminal Procedure, 1973, read with Section 138 of the Negotiable Instruments Act, 1881. The complaint was instituted on 09.02.2022. The sworn statement of the complainant was recorded on 29.04.2022, pursuant to which process came to be issued against the petitioner. Aggrieved by the proceedings, the petitioner preferred a Criminal Revision Petition in CRP No.114/2023. The Revisional Court, by order dated 05.10.2024, dismissed the revision petition. It is challenging the said order, as also the orders passed by the Trial Court, that the petitioner is before this Court.

4. Sri Mitty Narasimha Murthy, learned counsel for the petitioner, submits as follows:

   4.1. The first statutory notice was received by the petitioner on 11.01.2022. Subsequently, another notice dated 08.02.2022 came to be issued. However, without waiting for the mandatory period of 15 days from the date of receipt of the second notice, the complaint was instituted on 09.02.2022.

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4.2. Learned counsel submits that the complaint was instituted before the expiry of the statutory period contemplated under Section 138 of the Negotiable Instruments Act. The defect goes to the root of the maintainability of the complaint. The Revisional Court ought to have set aside the proceedings instead of permitting them to continue.

4.3. Learned counsel further submits that the notice dated 08.02.2022 contains a demand calling upon the petitioner to pay the amount covered by the dishonoured cheque. It is, therefore, not merely a communication correcting an inadvertent error, but a notice reiterating the demand for payment. According to learned counsel, the statutory period of 15 days would have to be reckoned afresh from the date of receipt of this notice. Since the complaint was filed on 09.02.2022, it is contended that the complaint is premature and the proceedings are liable to be quashed.

5. Though notice has been issued to respondent No.2, none has entered appearance on behalf of respondent No.2.

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6. Heard Sri Mitty Narasimha Murthy, learned counsel for the petitioner, and perused the material on record.

7. The short question that arises for consideration is:

> ***"Whether the communication dated 08.02.2022 constitutes a fresh statutory notice under Section 138 of the Negotiable Instruments Act, 1881, requiring the complainant to wait for a further period of 15 days, or is merely an addendum/corrigendum to the earlier notice received by the petitioner on 11.01.2022, so as to determine whether the complaint instituted on 09.02.2022 was premature?"***

8. The issuance of the cheque by the petitioner in favour of respondent No.2 and its subsequent dishonour are not in dispute. It is also not in dispute that the first statutory notice was received by the petitioner on 11.01.2022. The petitioner's contention is that the subsequent communication dated 08.02.2022 constituted a fresh demand notice and that the complaint filed on 09.02.2022 was, therefore, premature.

9. A perusal of the communication dated 08.02.2022 indicates that it is expressly issued as an addendum

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to the earlier legal notice dated 11.01.2022. The purpose of the addendum is to correct the error relating to the branch particulars of the bank referred to in the earlier notice. The original notice had already communicated the demand in respect of the dishonoured cheque. The addendum does not introduce a new cheque, alter the amount demanded or substitute the original demand with a different one. It merely clarifies the bank branch particulars set out in the earlier communication.

10. The Revisional Court has considered this very aspect and concluded that the communication dated 08.02.2022 is only an addendum to the earlier notice, clarifying the branch particulars of the bank, and cannot be treated as a fresh statutory notice under Section 138 of the Negotiable Instruments Act. On examination of the two communications, this Court finds no reason to disagree with the said conclusion.

11. The fact that the addendum also reiterates the demand for payment does not, by itself, convert it into a fresh statutory notice. The character of a communication has to be determined from its contents and the purpose for which it was issued. In

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the present case, the demand had already been communicated through the notice received on 11.01.2022. The subsequent communication only corrects the branch particulars and does not replace or supersede the original demand.

12. The statutory period of 15 days contemplated under clause (c) of the proviso to Section 138 of the Negotiable Instruments Act, therefore, has to be reckoned from the date of receipt of the original notice, namely, 11.01.2022. Excluding the date of receipt, the period of 15 days expired on 26.01.2022. The cause of action would arise upon the drawer failing to make payment within the said period. The complaint, having been instituted on 09.02.2022, was thus presented after expiry of the statutory period.

13. The petitioner's contention that the period of 15 days should be reckoned afresh from 08.02.2022 proceeds on the incorrect premise that the said communication was a fresh notice. Once it is found to be only a corrigendum to the original statutory notice, the question of granting a further period of 15 days from its date does not arise.

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14. It is necessary to clarify the legal position regarding a complaint instituted before expiry of the statutory period under Section 138 of the Negotiable Instruments Act.

15. The complaint in the present matter was not instituted within 15 days of receipt of the original statutory notice. The subsequent communication dated 08.02.2022, being only an addendum correcting the bank branch particulars, did not give rise to a fresh statutory period. The complaint was, therefore, maintainable on the date of its institution itself.

16. Even assuming that the communication dated 08.02.2022 constituted a fresh statutory notice, the same would not, by itself, invalidate the proceedings. The original statutory notice had been received by the petitioner on 11.01.2022. The petitioner failed to make payment within the statutory period of 15 days, and the cause of action under Section 138 of the Negotiable Instruments Act had consequently accrued upon expiry of that period. The complaint instituted on 09.02.2022 was, therefore, founded on a statutory demand in respect of which the requisite period had already elapsed.

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17. The subsequent communication dated 08.02.2022 did not withdraw or supersede the original notice, nor did it obliterate the cause of action that had already accrued. Even treating the subsequent communication as a fresh notice, the petitioner cannot rely upon it to contend that the statutory consequences flowing from the original notice stood suspended or extinguished. The petitioner had received the original demand, was afforded the statutory opportunity to make payment and did not avail himself of that opportunity. No prejudice was caused to him by the subsequent communication.

18. The objection founded on the subsequent notice, therefore, does not invalidate the complaint, which was instituted after expiry of the statutory period reckoned from the original notice.

19. In view of the above, the complaint instituted on 09.02.2022 cannot be said to be premature. The Trial Court did not commit any error in proceeding with the complaint, and the Revisional Court was justified in rejecting the challenge. No ground is made out for interference with the orders impugned in this petition.

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ORDER

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

ii) The orders dated 09.02.2022 and 29.04.2022 passed by the XXII Additional Chief Metropolitan Magistrate, Bengaluru, and the order dated 05.10.2024 passed by the LXIII Additional City Civil and Sessions Judge (CCH-64), Bengaluru, are sustained.

iii) The proceedings in C.C. No.13420/2022 shall continue in accordance with law.

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(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 12