HC-KAR
NC: 2026:KHC:65083
CRL.RP No. 287 of 2025
CNR: KAHC010111672025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 287 OF 2025

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

BETWEEN:

SRI SANGOUNDA RAMAGOUNDA
PATIL @ S.R. PATIL
S/O RAMAGOUNDA PATIL
AGED ABOUT 76 YEARS
OCC: RETD. HIGH SCHOOL TEACHER
R/AT. NIDASOSHI VILLAGE
HUKKERI TALUK
BELGAUM - 591 236.

...PETITIONER

(BY SRI SHRINIWAS M. KULKARNI, ADVOCATE)

AND:

1. MAHADEV B. BELAGAVI
SINCE DEAD REP. BY HIS LRS

(A) PARVATHI MAHADEV BELAGAVI
AGED ABOUT 65 YEARS
W/O LATE. M.B.BELAGAVI

(B) ANUPAMA SADASHIVA BIRADAR
AGED ABOUT 43 YEARS
W/O SADASHIV A BIRADAR
D/O LATE M.B. BELAGAVI

(A) AND (B) ARE RESIDING AT
NO.85, MAHALAKSHMI NILAYA
3RD FLOOR, 8TH MAIN

Digitally Signed By:
K B GEETHA

KERTHI BEKARY ROAD
R.R. LAYOUT, NAGADEVANAHALLI
BENGALURU -560 056.

(C) APARNA SHIVANAND MARAKATTI
AGED ABOUT 41 YEARS
W/O SHIVANAND B MARAKATTI
D/O LATE M.B. BELAGAVI
R/AT PLOT NO.1110
RENUKA BUILDING
SHIVALAYA DOWNAL,
3 CROSS, RIGHT SIDE END
RAMTHIRTH NAGAR
KANABURAGI ROAD
BELAGAVI - 590 015.

(D) NAGARAJ MAHADEV BELAGAVI
AGED ABOUT 40 YEARS
S/O. LATE M.B. BELAGAVI
R/AT NO.85/A, SHIVA PARVATI NILAYA
8TH MAIN, KEERTHI BEKARY ROAD
R.R. LAYOUT, NAGADEVANAHALLI
BENGALURU - 560 056.

…RESPONDENTS

(BY SRI NAGARARAJ MAHADEV BELAGAVI -
R1(D), PARTY IN PERSON;
R1(A), R1(B) AND R1(C) ARE SERVED)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNNS) PRAYING THAT TO SET ASIDE THE JUDGMENT AND ORDER OF SENTENCE DATED 08.03.2021 PASSED IN C.C.NO.28777/2017 ON THE FILE OF THE XXIII ADDL. CHIEF METROPOLITAN MAGISTRATE AT BENGALURU AND CONFIRMED IN CRL.A.NO.279/2021 VIDE JUDGMENT DATED 02.12.2024 ON THE FILE OF THE LII ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-53) AT BENGALURU AND DISMISS THE COMPLAINT FILED BY THE COMPLAINANT/ RESPONDENTS.

Digitally Signed By:
K B GEETHA

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

This is the revision petition filed under Section 397 read with 401 of the Code of Criminal Procedure, 1973 (in short 'the Cr.P.C.') by the Revision Petitioner/accused, challenging the judgment of conviction and order of sentence dated 08.03.2021 in CC No.28777/2017 on the file of XXIII Additional Chief Metropolitan Magistrate, Bengaluru (in short 'the trial Court') and also to set aside the judgment of appeal dated 02.12.2024 in Criminal Appeal No.279/2021 on the file of the LII Additional City Civil and Sessions Judge, Bengaluru (in short 'the appellate Court').

2. The parties would be referred with their ranks, as they were before the trial Court, for the sake of convenience and clarity.

Digitally Signed By:
K B GEETHA

3. The original complainant has filed the complaint under Section 200 Cr.P.C., against the accused for the offence punishable under section 138 of Negotiable Instruments Act, 1881 (in short NI Act).

4. The case of the complainant in nutshell is that the complainant and the accused were close friends and retired high school teachers. The son of accused by name Prashanth A Patil was running a Note Book business in the name and style Durudundeshwar Notebook Works. For the said purpose, during 2009 he requested the Complainant to render assistance of ₹3,00,000/-. Because of cordial relationship, the complainant has borrowed a sum of ₹3,00,000/- from Swabhiman Co-operative Credit Society Belgaum by mortgaging the site bearing No.2036 allotted to him by BUDA. He has issued the cheque to the son of accused bearing No.289728 dated 14.12.2009. The said cheque was encashed by the son of accused. He agreed to pay the instalments of the loan towards principal and interest and agreed to repay the entire bank loan amount.

Digitally Signed By:
K B GEETHA

Accordingly, for some time he has paid some portion of interest but subsequently failed to make payment. Hence, the complainant himself paid the balance loan amount and got redeemed his mortgage of the site.

5. It is the further contention of the complainant that the accused was possessing 19 guntas of land in Survey No.103/2 at Mangavathi Village, Athani Taluk, Belagavi. Because the accused and his son have not repaid the loan of ₹3,00,000/- as agreed, the accused entered into an agreement dated 04.07.2014 with the complainant agreeing to sell 05 guntas in the aforesaid survey number in favour of the complainant by receiving an advance amount of ₹6,00,000/-, agreeing to pay the balance amount of 2,00,000/- at the time of registration.

6. As per the agreement, the accused has not executed the sale deed and sometime after the agreement, he told the complainant that his children are not co-operating and not agreeing to sell his property.

Digitally Signed By:
K B GEETHA

Then on negotiation, the accused has issued a subject cheque for a sum of ₹9,00,000/- drawn on State Bank of India, Sankeshwar Branch, Belagavi in favour of the complainant. The complainant presented the same to the bank and it was dishonoured with an endorsement 'funds insufficient' dated 18.09.2017. Then the complainant got issued legal notice dated 16.10.2017 to the accused through his Advocate for which the accused has given an untenable reply dated 28.10.2017. Hence, he has filed the complaint on 27.11.2017.

7. After recording sworn statement, the trial Court has taken cognizance of the offence and issued summons to the accused.

8. After appearance of the accused, he pleaded not guilty of the offence alleged against him. During the pendency of the case, the original complainant died and his LRs are brought on record as complainant No.1(a) to (d). Complainant No.1(d) on behalf of other complainants

Digitally Signed By:
K B GEETHA

has let in evidence. He was also cross-examined. Then accused denied the contention of complainant in *toto* in his statement recorded under Section 313 Cr.P.C., and also letting defence evidence.

9. After recording evidence, hearing arguments, the trial Court concluded that the accused has committed the offence punishable under Section 138 of NI Act and sentenced the accused to pay fine of ₹9,00,000/-. Out of which ₹8,90,000/- shall be payable as compensation to PW.1-wife of the original complainant and remaining 10,000/- shall be payable to the State.

10. Aggrieved by the said judgment of conviction, the accused has preferred appeal before the appellate Court. After hearing arguments of both sides, the appellate Court has dismissed the appeal by confirming the judgment of conviction.

11. Aggrieved by the same, the revision petitioner/accused is before this Court.

Digitally Signed By:
K B GEETHA

12. Heard arguments of both sides.

13. The learned counsel for appellant/accused, Shriniwas M. Kulkarni would submit that the complaint averments does not repose any confidence on it because according to the complaint averments, by taking loan from the Society, the complainant has given loan of ₹3,00,000/- to the son of the accused which was not repaid by him fully and the complainant himself repaid it. Even though the complainant has paid ₹6,00,000/- to the accused towards purchase of 05 guntas lands in cash, no document is produced to substantiate the payment of said ₹6,00,000/-. Ex.P.10-the sale agreement is not a believable document. The Complainant has taken different versions in the legal notice, complaint and in the cross-examination. The original complainant was not available to face the cross-examination. His son does not know the transaction between complainant and accused in entirety. The accused has performed the marriage of his son during June-2017. At that time he had given two signed cheques

to his wife towards marriage expenses and entire cheque book was misplaced after the marriage ceremony. He came to know about it and informed it to the Bank but only after receipt of legal notice, he came to know that the subject cheque was misused by the Complainant. He is not due for sum of ₹9,00,000/- as pleaded in the complaint or in the subject cheque. Furthermore, there is some material alteration in the cheque. Hence, these aspects were not examined in an appropriate manner by the trial Court and the appellate Court. Hence, prayed for allowing the revision petition.

14. The respondent No.1(a) to (c) are served and unrepresented. The respondent No.1(d) appeared as party-in-person and would submit that the accused has not produced any material to substantiate the cheques given by him to his wife were stolen; he has not taken any legal action about theft of his cheques. Furthermore, the contention of the accused in his reply notice and in the cross-examination entirely differs. The complainant has

produced all relevant materials to substantiate that, ₹9,00,000/- was due from the accused as on the date of issuance of subject cheque. The accused has not rebutted the presumptions in favour of the complainant. Hence, prayed for dismissal of the revision petition. He would also submit that the transaction of lending of ₹3,00,000/- is of 2009; and transaction of giving ₹6,00,000/- is in the year 2014 and we are in the year 2026 and thus some interest ought to have been added to the aforesaid amount.

15. Having heard arguments of both sides, verifying the revision petition papers, the trial Court and the appellate Court records, the point that arises for consideration is:

> *"Whether the revision petitioner establish perversity or grossly erroneousness in the judgment of the trial Court and appellate Court or the judgment of the trial Court and appellate Court is glaringly unreasonable or wholly unreliable or untenable and the judgment of the trial Court and appellate Court considered immaterial or irrelevant material or no material or non-consideration of any relevant material or judicial discretion has been exercised arbitrarily or capriciously ?"*

Digitally Signed By:
K B GEETHA

16. The finding of this Court on above point is in '***Negative'*** for the following:

REASONS

17. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah in Criminal Appeal No.3654/2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** reported in ***2026 SCC OnLine SC 1485***. In the aforesaid judgment, the Hon'ble Apex Court at paragraph Nos.7.1. to 7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

> *"7.1 This Court, in the State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659 observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial Court and the*

Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgement and orders of the trial and appellate Courts.

7.2 Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of record. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452, while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:

> *"5.... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate Court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the*

Digitally Signed By:
K B GEETHA

Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence...."

7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower Court unless:

i. The order or finding of the lower Court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower Court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

18. Thus, only if the judgment of the trial Court confirmed by appellate Court is perverse or grossly

erroneous, or grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

19. The alleged offence in this case is the offence under Section 138 of NI Act; to attract the offence under Section 138 of NI Act, the complainant has to satisfy the following ingredients:

> *(i) that there exists legally enforceable debt;*
>
> *(ii) that the cheque was drawn from the account of bank of the accused for the discharge in whole or in part of any debt or other liability;*
>
> *(iii) that the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;*
>
> *(iv) that cheque so issued has been returned due to insufficiency of funds;*
>
> *(v) the payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing to the drawer of the cheque, within*

30 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

(vi) the drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice;

(vii) Filing of the complaint within a month from the date of expiry of the grace period of fifteen days before a Metropolitan Magistrate or a Judicial Magistrate not below first class.

20. If the aforementioned ingredients are satisfied, then there shall be a presumption under section 139 of the N.I. Act. Always, the cheque is a bill of exchange and thus there shall be a presumption under Section 118 of the NI Act. There is also statutory presumption under Section 139 of NI Act that there exists legally recoverable debt and the cheque is issued for recovery of legally recoverable debt either wholly or in part. But the presumptions available under Section 118 and 139 of the NI Act are rebuttable presumptions.

Digitally Signed By:
K B GEETHA

21. Thus, the jurisdiction of the Revisional Court is very limited. With this background the case of complainant and the accused is to be analysed.

22. In the complaint, there is a categorical statement about payment of ₹3,00,000/- to the son of the accused by obtaining loan from the Society by the original Complainant and this fact is not in dispute. On the other hand, the accused has produced Exs.D.1 to D.5 some receipts/Bank challan counterfoils to show that the accused has paid the said amount to the Society. Exs.D.1 to D.5 are for the year 2010, 2011 and 2012. Only a portion of the amount was deposited to the Society under these documents. It is not clear whether it is towards interest or principal. Anyway the entire amount was not cleared either by the accused or by his son. On the other hand, the LRs of the complainant has produced documents to show that the loan taken by the complainant from the Society is cleared by him on 07.07.2014.

Digitally Signed By:
K B GEETHA

23. Ex.P.10 is the registered sale agreement between the complainant and accused. According to this document, the original Complainant has paid ₹6,00,000/- as advance amount to purchase 05 guntas of land in Sy.No.103/2 belonged to the accused. It was registered on 05.07.2014. It bears the signature of the original complainant and the accused. These facts are not in dispute.

24. The accused is a retired School Teacher; hence he is not an illiterate person to put signature to any document without knowing its contents. Ex.P.10 categorically establishes the payment of ₹6,00,000/- by the complainant to the accused. There may be some anomaly that, even though the complainant paid ₹3,00,000/- to the son of accused which is not completely repaid; again he has given advance of ₹6,00,000/- to the accused. This may be because of close friendship between the complainant and the accused which is admitted by the accused categorically.

Digitally Signed By:
K B GEETHA

25. The only contention taken by the accused in his reply notice is that the signed two cheques were stolen by the complainant. However, to substantiate it, he has not produced any iota of evidence except his oral self-serving testimony. He has not lodged complaint to the police station, not taken any action and not given stop-payment letter to his banker. Even though in the reply notice, he has stated about misplacement of the entire cheque book; in the cross-examination, the accused has deposed that only two cheques were misplaced and he traced the cheque book subsequently. This is entirely contrary to his contention taken in the reply notice. Furthermore, the contention of accused is that he had given those cheques to his wife but he has not examined his wife to prove the theft. Furthermore, the loan of ₹3,00,000/- given to the son of accused, but son of the accused is not examined to prove the entire repayment by him.

26. The cheque is dated 15.09.2017; it was dishonoured as per endorsement 'funds insufficient' dated

Digitally Signed By:
K B GEETHA

18.09.2017; legal notice dated 16.10.2017; reply dated 28.10.2017 and filing of complaint dated 17.11.2017. Accused has not disputed his signature on the cheque and not disputed that the said cheque is from his bank account. Under these circumstances, presumption under clauses (iii) to (vii) of ingredients of Section 138 would be in favour of the complainant.

27. Once the complainant has established the aforesaid foundational facts, the presumption is that the cheque is issued for consideration; it was issued on the date mentioned in it and it was issued towards legally recoverable debt or liability and there exists legally recoverable debt. However, these presumptions are rebuttable in nature. The accused can rebut these presumptions by leading his evidence, by cross-examining the complainant, by giving reply to legal notice. In this case, the accused has taken all the above three modes. Thus the accused has to rebut the burden on him. To rebut it, he has cross-examined the complainant in length.

Digitally Signed By:
K B GEETHA

The only one thing he elicited in the cross- examination of the son of original complainant is that payment of ₹3,00,000/- is different transaction and payment of ₹6,00,000/- is another transaction. Except this nothing was elicited. Furthermore, the financial capacity of the original complainant was not at all in dispute. On 31.03.2014, the original complainant retired from service and he has given ₹6,00,000/- to the accused under Ex.P.10 on 04.07.2014. Thus, nothing was elicited in the cross-examination of the complainant to rebut the presumptions.

28. Considering these aspects, the trial Court convicted the accused which is confirmed by the appellate Court. There is no perversity in those judgments. They are not vexatious and not capricious. There is no gross erroneousness in the aforesaid judgments. Hence, interference of this Court and the aforesaid judgments is not required.

Digitally Signed By:
K B GEETHA

29. Hence, this court passes the following :

ORDER

The Revision petition is ***dismissed***.

Digitally Signed By:
K B GEETHA

(GEETHA K.B.)
JUDGE

rs
List No.: 1 Sl No.: 14