HC-KAR

NC: 2026:KHC:64221
CRL.A No. 592 of 2016

CNR: KAHC010262532016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.592 OF 2016 (A)

BETWEEN:

SRI. N.CHANDRAPPA,
S/O LATE NANJAPPA,
AGED ABOUT 49 YEARS,
R/AT NO.31, 2ND "A" CROSS,
BYATARAYANAPURA NEW EXTENSION
LAYOUT, BANGALORE - 560 026.

...APPELLANT

(BY SRI. UMESH B.N., ADVOCATE)

AND:

SMT. PARVATHAMMA,
W/O LATE RAMALINGA,
AGED ABOUT 53 YEARS,
R/AT NO.U/11, 2ND CROSS,
PIPELINE ROAD,
MALLESWARAM,
BANGALORE - 560 003.

...RESPONDENT

(BY SRI. RAJANNA, ADVOCATE)

Digitally signed by GEETHA P G
Location: HIGH COURT OF KARNATAKA

THIS CRL.A. IS FILED UNDER SECTION 378(4) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 02.01.2016 PASSED BY THE COURT OF LXVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH-68) IN CRIMINAL APPEAL NO.665/2014 AND FURTHER BE PLEASED TO CONFIRM THE JUDGMENT AND ORDER DATED 06.06.2014 PASSED IN C.C.NO.12538/2011 BY THE XVIII A.C.M.M., AT BANGALORE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL COMING ON FOR ORDERS THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the judgment of acquittal dated 02.01.2016 in Crl.A.No.665/2014 on the file of LXVII Addl. City Civil and Sessions Judge, Bengaluru City (CCH-68).

2. Brief facts leading to this appeal are that, the appellant/complainant had filed a complaint under Section 200 of Cr.P.C. for the offence punishable under Section 138 of N.I. Act. After taking cognizance, summons was issued to the accused. In response to summons, accused appeared before the Court and enlarged on bail. Substance of plea was recorded. Accused pleaded not guilty and claimed to be tried.

3. To prove the guilt of the accused, complainant examined himself as PW.1 and another witness as PW.2 and marked seven documents as Exs.P1 to P7. On closure of complainant side evidence, statement under Section 313 of Cr.P.C. was recorded. Accused has totally denied the evidence

of PW.1 and adduced her evidence as DW.1 and another witness as DW.2. Having heard the arguments on both sides, the trial Court has convicted the accused for offence punishable under Section 138 of N.I. Act and sentenced her to pay a fine of Rs.4,75,000/-.

4. Being aggrieved by the judgment of conviction and order on sentence, the accused, Smt.Parvathamma, preferred an appeal before the LXVII Additional City Civil and Sessions Judge, Bengaluru City (CCH-68), in Criminal Appeal No.665/2014. Same came to be allowed on 02.01.2016 and accused was acquitted. Being aggrieved by this judgment of acquittal, the appellant/complainant has preferred the present appeal.

5. Learned counsel for the appellant would submit that the trial Court has not properly recorded the statement under Section 313 of Cr.P.C. The evidence of PW.2 is not mentioned in the statement recorded under Section 313 of Cr.P.C and sought for remand the case to the trial Court for disposal in accordance with law.

6. Learned counsel for the respondent has admitted that evidence of PW.2 is not shown in the statement recorded under Section 313 of Cr.P.C.

7. I have examined the materials placed before this Court. Although PW.2-Prabhakar B.V. was examined, the trial Court has not questioned as to the evidence of PW.2 in the statement recorded under Section 313 of Cr.P.C. The statement under Section 313 of Cr.P.C is not an empty formality. While recording statement under Section 313 of Cr.P.C, the trial Court has not properly put the questions as required under Section 313 of Cr.P.C. The trial Court has not put the question as to the date of presentation of cheque to the bank for encashment and also the date of endorsement issued by the bank authorities. The trial Court has not put any questions as to the evidence of PW.2-Prabhakar B.V., S/o Venkatesh B.V. Therefore, it is clear that the trial Court has not properly recorded the statement under Section 313 of Cr.P.C. In view of Section 313 of Cr.P.C, in Every enquiry or trial for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him.

8. In the case on hand, the trial Court has not properly questioned the accused as required under Section 313 of Cr.P.C. Hence, the case has to be remitted to the trial Court for due compliance of the provisions of Section 313 of Cr.P.C. Accordingly, I proceed to pass the following:

ORDER

(i) The appeal is **allowed**;

(ii) The judgment of conviction and order on sentence dated 06.06.2014 in C.C.No.12538/2011 passed by the XVIII Addl. Chief Metropolitan Magistrate, Bengaluru and the judgment of acquittal dated 02.01.2016 in Crl.A.No.665/2014 passed by the LXVII Additional City Civil and Sessions Judge, Bengaluru City (CCH-68) are hereby set aside;

(iii) The matter is remitted to the Court of XVIII Addl. Chief Metropolitan Magistrate, Bengaluru with a direction to record the statement under Section 313 of Cr.P.C. in accordance with law;

(iv) Thereafter, the trial Court is directed to dispose of the case in accordance with law;

(v) Both parties are directed to appear before the trial Court on 06.01.2027 without seeking any further notice;

(vi) The trial Court is directed to dispose of the case within six months as the matter is of the year 2011.

It is made clear that this Court has not expressed any opinion on the merits of the case.

Registry is directed to send the copy of this judgment along with TCR to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

PGG
List No.: 1 Sl No.: 3