HC-KAR

NC: 2026:KHC:64018
CRL.P No. 9522 of 2025

CNR: KAHC010438822025

**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. 9522 OF 2025 (482(Cr.PC) / 528(BNSS)-)**

**BETWEEN:**

SRI.NAGESH G.N.,
S/O NARAYANAPPA,
AGED ABOUT 32 YEARS,
R/O GOLLAHALLI VILLAGE,
BISKOOR POST, KUDUR HOBLI,
MAGADI TALUK-561101
RAMANAGARA-DISTRICT

...PETITIONER

(BY SRI. MAHESHA V.,ADVOCATE)

**AND:**

SRI.SATHISH,
S/O MOODLAIAH,
AGED ABOUT 40 YEARS,
R/O GOLLAHALLI VILLAGE,
BISKOOR POST, KUDUR HOBLI,
MAGADI TALUK-561101
RAMANAGARA-DISTRICT

...RESPONDENT

(BY SRI. H R SANJEEVE GOWDA., ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ORDER DATED 20.06.2025 PASSED IN CC NO.3595/2021 BY THE COURT OF ADDL.CIVIL JUDGE AND JMFC AT MAGADI FOR THE OFFENCES P/U/S 138 OF N.I ACT.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

## ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

> *(a) Quash the order dated 20.06.2025 passed in CC No.3595/2021 by the court of Addl.Civil Judge and JMFC at Magadi for the offences p/u/s 138 of N.I act.*

2. Respondent No.2 had instituted proceedings under Section 200 of the Code of Criminal Procedure, 1973, read with Section 138 of the Negotiable Instruments Act, 1881. The petitioner, who is the accused in the said proceedings, entered the witness box and led evidence as DW-1. In the course of his evidence, he produced a compact disc (CD), which was marked in evidence. However, when the CD was sought to be played during the course of final arguments, it did not play. It was then noticed that the CD did not contain any recording.

3. In these circumstances, the petitioner filed an application under Section 311 of the CrPC seeking

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permission to recall himself as DW-1 and produce a fresh CD containing the recording of a conversation between the complainant and the petitioner's brother, which had allegedly been transferred from the petitioner's mobile phone to the CD. The respondent opposed the application, contending, inter alia, that the matter had already been posted for final arguments and that allowing the application would delay the proceedings. It was also contended that the petitioner ought to have verified the contents of the CD before producing it in evidence and that he could not be permitted to produce a fresh CD at the stage of arguments.

4. Accepting the objection, the Trial Court dismissed the application. Aggrieved thereby, the petitioner is before this Court.

5. Sri Mahesha V., learned counsel for the petitioner, submits that the recording contained in the proposed CD is that of a conversation between the complainant and the petitioner's brother and is relevant to the defence in the proceedings. He submits that the recording is available on the petitioner's mobile phone and can be transferred to a fresh CD. He further submits that the petitioner is willing to

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produce the requisite certificate relating to the electronic record and to subject himself to cross-examination by the respondent regarding the production of the CD, the certificate and the contents of the recording.

6. Sri H.R. Sanjeeve Gowda, learned counsel appearing for the respondent, reiterates the objections raised before the Trial Court. He submits that the matter had already reached the stage of final arguments and that the petitioner ought to have verified whether the CD contained the recording before producing it in evidence. It is contended that the CD originally produced was blank and that the petitioner cannot be permitted to introduce fresh evidence at this belated stage. He, therefore, submits that the Trial Court was justified in rejecting the application and that no interference is called for.

7. Heard Sri Mahesha V., learned counsel for the petitioner, and Sri H.R. Sanjeeve Gowda, learned counsel for the respondent, and perused the material on record.

8. It is not in dispute that the CD produced by the petitioner was marked in evidence. On being specifically asked whether the CD had been played

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either at the time of its marking or at any subsequent stage before the commencement of final arguments, both learned counsel submit that it had not been played. It was only when the CD was sought to be played during final arguments that it was noticed that it did not contain any recording or that its contents were not accessible.

9. Learned counsel for the respondent is justified in contending that the petitioner ought to have verified the contents of the CD before producing it in evidence. Ordinarily, a party who produces an electronic record must ensure that the medium contains the material sought to be relied upon. However, the fact remains that the CD was marked in evidence without its contents being played or verified. The material on record does not establish whether the CD was blank when it was originally produced or whether the recording became unavailable subsequently. The circumstances in which the recording became unavailable have, therefore, not been ascertained.

10. The petitioner now submits that the original recording continues to be available on his mobile phone and that he seeks permission only to transfer

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the same recording to a fresh CD and produce it before the Trial Court. He has also expressed his willingness to produce the requisite certificate relating to the electronic record and to submit himself for cross-examination by the respondent.

11. In the circumstances, the petitioner's request cannot be rejected solely on the ground that the matter has reached the stage of final arguments. The recording is stated to be relevant to the petitioner's defence. If the petitioner is not permitted to produce it, his defence may be prejudiced. On the other hand, the respondent's interest can be adequately protected by permitting him to cross-examine the petitioner with regard to the source and transfer of the recording, the certificate accompanying the electronic record and the contents of the CD. The CD can also be played before the Trial Court at the stage of its production so that its contents can be verified. The respondent would, therefore, have a fair opportunity to question the petitioner and contest the authenticity, reliability and admissibility of the electronic record.

12. The permission granted herein shall not be construed as a finding on the genuineness, authenticity or

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admissibility of the recording. Those aspects shall be considered by the Trial Court after affording the respondent an opportunity to cross-examine the petitioner and raise all permissible objections. The petitioner shall be permitted to produce only the recording referred to in the application and shall not be entitled to introduce any other material under the guise of recalling DW-1.

13. In view of the above, this Court is of the considered opinion that recalling DW-1 for the limited purpose of producing the fresh CD would serve the ends of justice, without causing any irreparable prejudice to the respondent. Accordingly, this Court passes the following:

**ORDER**

i) The Criminal Petition is allowed.

ii) The order dated 20.06.2025 passed by the Additional Civil Judge and JMFC, Magadi, in C.C. No.3595/2021, on the application filed by the petitioner under Section 311 of the Code of Criminal Procedure, 1973, is set aside. Consequently, the application filed by the petitioner under Section 311 of the CrPC is allowed.

iii) The petitioner, who was examined as DW-1, is permitted to be recalled for the limited purpose of

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producing a fresh CD containing the recording stated to have been transferred from his mobile phone, and for no other purpose. The petitioner shall produce the requisite certificate and comply with the applicable legal requirements governing the proof of the electronic record.

iv) The respondent is at liberty to cross-examine DW-1 with regard to the source, transfer, certificate and contents of the CD and to raise all permissible objections as to its genuineness, authenticity and admissibility.

v) The Trial Court shall consider the objections, if any, and determine the admissibility and evidentiary value of the electronic record in accordance with law.

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**(SURAJ GOVINDARAJ)**
**JUDGE**

PRS
List No.: 1 Sl No.: 23