HC-KAR

NC: 2026:KHC:59591
CRL.P No. 7974 of 2024

CNR: KAHC010450482024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 7974 OF 2024

BETWEEN:

PUCHIMADA UDAYA
S/O LATE KAVERAPPA,
AGED ABOUT 47 YEARS,
R/AT BALUGODU VILLAGE,
VIRAJPET, KODAGU - 18

...PETITIONER

(BY SRI. PAVANA B.K, ADVOCATE)

AND:

SRI. N.S BELLIAPPA
S/O LATE SOMAIAH,
AGED ABOUT 55 YEARS,
R/AT KADANOOR VILLAGE AND POST
VIRAJPET, KODAGU - 18

...RESPONDENT

(BY SRI. SACHIN B.S, ADVOCATE)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER ISSUANCE OF PROCESS DTD 22.08.2023 AND CONSEQUENTLY QUASH THE ENTIRE PROCEEDINGS IN CC.NO.852/2023 FOR THE OFFENCE P/U/S 138 OF NI ACT PENDING ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC COURT, VIRAJPET.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. by the petitioner/accused to set-aside the order dated 22.08.2023 passed in C.C.No.852/2023, arising out of PCR No.283/2023, for the offence punishable under Section 183 of Negotiable Instruments Act (for short, 'N.I. Act'), pending on the file of Prl. Civl Judge and JMFC, Virajpet, against the petitioner.

2. Briefly, the facts of the case are, the respondent filed a private complaint against the petitioner under Section 200 of Cr.P.C. for the offence punishable under Section 138 of N.I. Act. It is alleged in the complaint that, in the month of January 2021, the petitioner approached the respondent for a hand loan of Rs.20,00,000/- for development of real estate business. Accordingly, the respondent advanced the hand loan of Rs.20,00,000/- from the month of February 2021 till the end of October 2021 in different installments. Thereafter, for repayment of the said amount, the petitioner/accused issued a cheque bearing No.286198 for a sum of Rs.20,00,000/- dated 26.06.2023 drawn on State Bank of India, Virajpet Branch, in favour of the respondent. Accordingly, the respondent presented the said cheque for encashment, the same was

returned with an endorsement 'Funds Insufficient'. Thereafter, the respondent issued a legal notice and filed the private complaint against the petitioner. The learned Magistrate took cognizance of the offence and issued summons to the petitioner vide order dated 22.08.2023. The said order has been challenged in this petition by the petitioner.

3. It is stated in the petition that the private complaint is not maintainable for the reason that the petitioner had repaid part of the loan amount advanced by the respondent and as such, he is not entitled to present the cheque for full loan amount as per the judgment of ***Dashrathbhai Trikambhai Patel vs. Hitesh Manehndrabhai Patil and Another***. Hence, it is submitted that the learned Magistrate took cognizance without applying the judicious mind. Accordingly, he prays to allow the petition.

4. *Per contra*, the prayer is opposed by learned counsel for the respondent. According to him, the respondent has admitted that he has **not** received part of the loan amount advanced by him. In such circumstance, the judgment of ***Dashrathbhai Trikambhai Patel*** supra does not applicable to

the facts in the present case. Accordingly, he prays to dismiss the petition.

5. I have given my anxious consideration to the submission and perused the documents made available on record.

6. On perusal of the private complaint averments, the respondent is nowhere stated that the petitioner had repaid the part loan amount. Despite, he filed the private complaint for a sum of Rs.20,00,000/- without such assertion in the complaint or in the notice issued by the respondent. As such, the judgment referred by the petitioner does not applicable to the case on hand. The assertion in the petition that the petitioner has repaid the part loan amount to the respondent is the matter for trial. At this stage, the proceedings cannot be quashed. Accordingly, the petition, being devoid of merits, is ***dismissed***.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 30