HC-KAR

NC: 2026:KHC:60643
CRP No. 535 of 2025

CNR: KAHC010485292025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 535 OF 2025 (IO)

BETWEEN:

1. M/S. DHARTHI CHITS PRIVATE LIMITED
NO. 121, MEZZANINE,
PRITHVI BUILDING,
5TH MAIN, CHAMARAJPET,
BENGALURU-560 018.
REPRESENTED BY ITS DIRECTORS,
MR. SUNKU PADMANABHA KIRAN AND
MR. SUNKU PADMANABH

2. MR. SUNKU PADMANABHA KIRAN
S/O. SUNKU PADMANABHA,
DIRECTOR,
M/S. DHARTHI CHITS PRIVATE LIMITED,
AGED ABOUT 47 YEARS,
RESIDING AT NO. B 203,
17TH CROSS, 2ND A MAIN ROAD,
BANASHANKARI,
BENGALURU-560 070

3. SUNKU PADMANABHA
S/O. LATE GUNADHAIAH SHETY,
AGED ABOUT 69 YEARS,
DIRECTOR,
M/S. DHARTHI CHITS PRIVATE LIMITED,
AGED ABOUT 47 YEARS,
RESIDING AT NO. B 203,
17TH CROSS, 2ND A MAIN ROAD,
BANASHANKARI,
BENGALURU-560 070

...PETITIONERS

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

(BY SRI. RANGANATH REDDY R., ADVOCATE)

AND:

GAYATHRI N.J.,
D/O. N.A.JAYRAM,
AGED ABOUT 30 YEARS,
RESIDING AT NO. 50,
6TH MAIN, 7TH BLOCK,
BANASHANKARI III STAGE,
BENGALURU-560 085.

…RESPONDENT

(BY SRI. CHANDRASHEKAR L., ADVOCATE)

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 09.09.2024 PASSED ON IA NO.4 IN OS NO.6884/2019 ON THE FILE OF LVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DISMISSING THE IA NO.4 FILED UNDER ORDER 7 RULE 11 OF CPC., FOR REJECTION OF PLAINT.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 08.10.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present Civil Revision Petition is filed aggrieved by the order dated 09.09.2024 passed on IA No.4 in OS No.6884/2019 by the LVI Addl. City Civil & Sessions Judge, Bengaluru (CCH-57).

2. The facts of the case are that the respondents herein had filed a suit seeking recovery of sum of

Rs.48,36,855/- from the defendants together with interest at the rate of 18% per annum from the date of suit till the date of realization. The specific case of the plaintiff is that, the plaintiff and the defendants are friends and as such the defendants are very well known to the plaintiff. In fact, the defendants are carrying out the Agarbatti business in the name and style of Sri. Durga Perfumery Works and also the chit fund business in the name and style of Dharthi Chits Private Limited. The case of the plaintiff is that the defendants approached the plaintiff and represented that they are engaged in the business of chit funds and requested the plaintiff to become a member of the chit group having 25 members with a chit value of Rs.25,00,000/-. It was further represented by the defendants to the plaintiff that the premium of the chit is Rs.1,00,000/- per month and the said premium amount will vary depending upon the bidding of the chit. It was promised by the defendants that there will be a huge profit and that they are going to get and the same will be shared to its members. As represented by the defendants, the plaintiff accepted and became the member of the said chit business amounting to Rs.25,00,000/-. The plaintiff submitted

that the said chit transaction started on 01.04.2011 and ended on 02.07.2013. As per the chit ledger maintained by the defendants, the plaintiff has paid the premium right from 01.04.2011 to 02.07.2013, totally amounting to Rs.22,00,000/- Though the defendants are duty bound to clear the chit amount in favour of the plaintiff, for one or the other reasons the defendants started evading to pay the same. In fact, the plaintiff started demanding the defendants to pay and to clear the same. Finally, on 03.03.2017 a cheque was issued by the defendants for a sum of Rs.21,91,348/-. The plaintiff presented the same on 07.03.2017 and the same was dishonoured. It is stated that the defendants with an intention to create wrongful loss to the plaintiff issued the said cheque and he has initiated the proceedings under Section 138 of the NI Act before the XII Addl. Chief Metropolitan Magistrate, Bengaluru and that the Magistrate passed a judgment convicting the accused for the offence punishable under Section 138 of the NI Act and also imposed a fine of Rs.22,92,348/- and further directed the defendants to pay a sum of Rs.22,81,348/- as compensation to the plaintiff.

3. Against that, an appeal has been filed, and the order has been stayed. It is the case of the plaintiff that certain properties of the defendant were the subject matter of the pending suits. Also, if the criminal prosecution is delayed, he would not be able to recover the amount. Hence, he has come before the court seeking recovery of Rs.48,36,855/-. It is stated that, as per the cheque amount, it is Rs.22,92,348/-, and interest on the chit amount from 02.07.2013 till date at the rate of 18% comes to Rs.25,44,507/-. In the said suit, an application was filed under Order VII Rule 11 of CPC seeking rejection of the plaint. According to them, the suit is not maintainable. The same would create an abuse of process of law, as the very focal point of the suit is the cheque, which was subjected to adjudication after the alleged dishonour by the defendant, i.e., the defendant was prosecuted by the plaintiff under Section 138 of N.I Act before the Court. The complaint was allowed and the defendant preferred an appeal, and in the appeal, the judgment and sentence dated 15.07.2019 have been stayed and are inoperative at this juncture. It is stated that, if they are successful, the civil suit will become

infructuous. The plaintiff has disregarded the provisions of Section 421 of the Code of Criminal Procedure, which is an envisaged provision for recovery of the sentenced amount. The plaintiff has instituted an abortive suit based on a claim that is uncertain, and the defendant cannot be prosecuted for a suit that is based on changeable circumstances. Hence, it is prayed that the suit is liable to be rejected.

4. The trial Court, by order impugned, had dismissed the application. While dismissing the application, the Court had observed that on perusal of the records. The plaintiff has filed the suit for recovery on the basis of the cheque. As such, the suit is filed for recovery of the amount due under the cheque. Section 64(3) of the Chit Funds Act,1982 states that the Civil Court has no jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to under Section 64, and that any dispute touching the management of the chit business shall be referred by any of the parties to the dispute, to the Registrar for Arbitration. Explanation (I) states that a claim by or against a foreman for any debt or demand due to him from a subscriber, or due from him to a subscriber shall be

a dispute touching the management of the chit business. In this case, though the suit is filed with respect to the cheque issued in connection with the chit amount, the suit does not fall under Chit Funds Act as the dispute is not related to the management of the chit business as provided in the said section. The suit is filed on the basis of the dishonour of the cheque for recovery of the amount due under the cheque. As such, there is no bar to file the suit and there are no grounds to reject the plaint. Accordingly, the court had dismissed the application.

5. The learned counsel appearing for the petitioner submitted that the trial court failed to appreciate that the entire suit claim is based on a cheque that has already been adjudicated in the criminal court. No fresh cause of action survives to file the suit. It is submitted that, in view of the bar under the Chit Funds Act, the present suit is not maintainable. The trial Court failed to consider all the aspects and the reasoning by the trial Court is not valid.

6. The learned counsel appearing for the respondent submitted that the pending criminal proceedings cannot be a bar for the petitioner to file the suit and the court has rightly

considered and passed an order refusing to reject the plaint and there are no grounds to interfere. He relied on the judgment of the Apex Court in ***D Purushotama Reddy & Anr Vs. K Sateesh[1].*** He relied on paragraph Nos.13, 16, 17 and 18, which read as under:

> ***"13. Evidently, a duty has been cast upon the civil courts to take into account the sum paid or recovered as compensation in terms of Section 357 of the Code. It is futile to urge that on the date on which the civil court passed the decree the appellants were not convicted. As noticed hereinbefore, the appeal is a continuation of the suit and in that view of the matter as the appellants had in total deposited a sum of Rs. 4,00,000/-, i.e., Rs. 2,10,000/- in the criminal proceeding and Rs. 1,90,000/- in the civil proceedings, out of which a sum of Rs. 3,09,000/- has been withdrawn by the respondent, the High Court was obligated to take the same into consideration. In other words, having regard to the provisions of Sub-section (5) of Section 357 of the Code, a duty was cast upon the High Court to take into account the fact that a sum of Rs. 2,00,000/- had already been paid by the appellants to the respondent. Concededly, both the proceedings were maintainable. Law recognizes the same. The Parliament must have the situation of this nature in mind while enacting Clause (b) of Sub-section (1) of Section 357 of the Code and Sub-section (5) thereof.***
>
> ***xxx***
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> ***16. Submission of the learned counsel for the respondent that the said question was not raised before the learned Trial Judge or before the High Court is of no moment. Sub-section (5) of Section 357 of the Code casts a duty upon the***

[1] AIR 2008 SUPREME COURT 3202

> ***court. It was for the Trial Court/High Court to take the same into consideration. Such consideration was required to be bestowed despite the fact that the said provision was not brought to its notice.***
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> ***17. Actus curiae neminem gravabit (no person shall be prejudiced by an act of court) is a well-known maxim. In any event, this Court in exercise of its jurisdiction under Article 136 as also under Article 142 of the Constitution of India can direct rectification of a mistake committed by the courts below.***
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> ***18. We, therefore, are of the opinion that the impugned judgment should be modified and is directed to be modified accordingly. The matter is remitted to the learned Trial Judge. The learned Trial Judge is directed to take into consideration the amount of compensation deposited by the appellants in the criminal case and for the said purpose, the learned Trial Judge should draw up a fresh decree while correcting the decree in terms of the order of this Court. The learned Trial Judge shall, while preparing a fresh decree, take into consideration the various dates on which the diverse amounts had been deposited by the appellants and calculate the interest payable thereupon."***

Relying on this judgment, it is submitted that the CRP has to be dismissed.

7. Having heard the learned counsel on either side, perused the material on record. The scope of Order VII Rule 11 of the CPC is well settled when considering an application to reject the plaint. The Court must examine the averments in the plaint as a whole and determine whether the suit is barred by law. The defendant's defence is ordinarily irrelevant for this

purpose. However, where the statutory bar is apparent from the plaintiff's own pleading, the Court is not inclined to permit the parties to undergo trial merely to arrive at a conclusion that flows from the plaint itself. The plaintiff has categorically pleaded that the defendant was carrying on chit fund business. He became a member of the chit at the defendant's request, and the amount sought to be recovered was pursuant to that arrangement. The plaint does not disclose the original transaction as an independent loan advanced by one friend to another. Friendship is stated to be the circumstance under which the plaintiff came to participate in the business. The nature of the transaction assumes importance in view of Section 64 of the Chit Funds Act, 1982. Subsection 1 provides that disputes touching the management of the chit business between persons falling within the specified categories, including foreman and subscribers, shall be referred to the Registrar for Arbitration. Explanation (I) expressly includes a claim by a subscriber against the foreman for any debt or demand due from the foreman, whether such liability is admitted or disputed. Subsection 3 excludes the jurisdiction of

the Civil Court in respect of the disputes covered by subsection 1. The provision is significant because it does not confine the statutory remedy to disputes concerning the internal administration of a chit. By expressly including monetary demands between the foreman and subscriber, the legislature has brought within the statutory mechanism claims for recovery of money arising from chit business where the transaction is governed by the Act. A subscriber seeking repayment cannot avoid that mechanism merely by presenting the claim as an ordinary money suit. In ***Dinesh Jaya Poojary Vs. M/s.Malvika Chits India Pvt. Ltd.,***[2] the Bombay High Court considered the scope of Section 64 of the Chit Funds Act, 1982 and held that disputes falling within the provisions must be referred to the Registrar. The Court recognised that the statutory forum cannot be displaced merely by relying upon the subsequent agreement concerning liability arising from the chit transaction. The plaintiff relies upon the cheques issued in 2017. However, the issuance of a cheque does not necessarily alter the nature of the liability for which it was issued. The plaintiff itself connects the cheque with the money paid towards

[2] AIRONLINE 2019 BOM 497

the chit. There is no pleaded case of an independent advance or a separate transaction giving rise to an unrelated liability. The cheque is relied upon as an acknowledgment or means of discharging the amount alleged to be due.

8. If the liability arises from a dispute governed by Section 64 of the Chit Funds Act, 1982, the addition of interest does not confer jurisdiction upon a civil court from which jurisdiction has been excluded. The proceedings under Section 138 of the N.I Act stands on a different footing. Dishonour of a cheque may constitute a statutory offence, and a Criminal Court is competent to award compensation in accordance with law. A civil remedy for recovery of an outstanding debt is not ordinarily barred merely because criminal proceedings concerned the dishonour of the cheques have been instituted. Therefore, the defendant's contention that the civil suit is barred solely because the criminal Court has already convicted cannot be accepted. The conviction is under challenge in appeal, and an order directing compensation does not necessarily establish that the monetary liability has been satisfied. The plaintiff cannot obtain double recovery. However,

the pursuit of a criminal proceeding does not by itself extinguish an otherwise available civil remedy.

9. The real impediment to the plaintiff in this case is the statutory exclusion of civil jurisdiction under the Chit Funds Act. Insofar as the transaction falls within that enactment, the subsequent cheque and the prosecution arising from its dishonour do not change the forum prescribed for determining the underlying chit liability. The distinction between a suit barred by a special statute and a suit in which the defendant merely disputes liability must be maintained. The former concerns the competence of the court to entertain the proceedings. The latter concerns the merits of the claim. Where the plaint itself establishes the relationship of foreman as subscribers and a monetary demand arising from a chit governed by the Act, the bar contained in Section 64(3) of the Chit Funds Act, 1982 operates independently of the correctness of the amount claimed. The trial court ought to have examined the effect of Section 64(3) of the Chit Funds Act, 1982 upon the transaction disclosed in the plaint. Rather than treating the claim as an ordinary suit for recovery founded upon a

dishonoured cheque, the statutory bar cannot be avoided by changing the forum of the proceeding.

10. The learned judge failed to understand the scope of Section 64(3) and 64(1) of the Chit Funds Act, 1982. In the considered opinion of this Court, as it is a chit transaction, Section 64(3) of the Chit Funds Act, 1982 applies to the present case. In light of the same, the suit before the Civil Court is not maintainable and must be rejected. The rejection of the plaint shall not amount to an adjudication of the plaint's entitlement to recover the amount claimed. The plaintiff is at liberty to pursue such remedies as may be available through the competent statutory authority, subject to limitations and other requirements of law. Accordingly, this Court is passing the following:

ORDER

i. The order dated 09.09.2024 passed on IA No.4 in OS No.6884/2019 by the LVI Addl. City Civil & Sessions Judge, Bengaluru (CCH-57) is ***set aside***.

ii. The Civil Revision Petition is ***allowed*** and consequently the ***plaint is rejected***.

iii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PKN
List No.: 1 Sl No.: 2
MR