HC-KAR

NC: 2026:KHC:59416
CRL.A No. 1632 of 2024

CNR: KAHC010498522024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1632 OF 2024 (A)

BETWEEN:

1. M/S SREE GOKULAM CHIT AND
FINANCE COMPANY PVT. LTD.,
HAVING ITS REGISTERED OFFICE AT CHANNAI
AND HAVING ITS BRANCH OFFICE:
NO.3, THINNAILALI CHAMBERS,
1ST CROSS ROAD, GANDHINAGAR,
BENGALURU-560 009.
NOW AT: NO.35, 3RD FLOOR,
DEVANGA TOWERS, K.G.ROAD,
GANDHINAGAR,
BENGALURU-560 009.

Digitally signed by V MANJUSHA BAI
Location: HIGH COURT OF KARNATAKA

REPRESENTED BY ITS G.P.A. HOLDER/
LEGAL ASSISTANT/AUTHORIZED
REPRESENTATIVE MR. GIRISH R.,
AGED ABOUT 51 YEARS,
S/O MR. RAMAIAH J.

...APPELLANT

(BY SRI. SHIVA PRASAD E., ADVOCATE)

AND:

1. MR. ARUN KUMAR N.
AGE: MAJOR
FATHER'S NAME: NOT KNOWN

NO.10, SKANDA, 1ST CROSS,
G. RAMAIAH LAYOUT,
VIDYARANYAPURA POST,
NEAR SAMBRAM COLLEGE,
BANGALORE-560 097.

…RESPONDENT

(BY SRI. EUGENE PRABHU B., ADVOCATE)

THIS CRL.A. IS FILED U/S 378(4) CR.P.C PRAYING TO SET ASIDE THE ORDER/JUDGMENT DATED 02.03.2024 PASSED IN C.C.NO.8732/2021 BY THE COURT OF THE XXVIII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU AND CONSEQUENTLY BE PLEASED TO RESTORE THE CASE IN C.C.NO.8732/2021 BY THE COURT OF XXVIII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, FOR TRYING AND DISPOSING THE CASE IN ACCORDANCE WITH LAW.

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/complainant has preferred this appeal against the order passed by the XXVIII Additional Chief Metropolitan Magistrate, Bengaluru, dated 02.03.2024 in C.C.No.8732/2021.

2. The brief facts leading to this appeal are that, the complainant M/S Sree Gokulam Chit and Finance Company Pvt.

Ltd. filed a complaint under Section 200 of Cr.P.C. for the offence under Section 138 of N.I. Act. The case was registered in PCR No.5564/2018. After taking cognizance, case was registered in C.C.No.8732/2021. Accused appeared before the Court and obtained bail. On 05.08.2023, the substance of plea was recorded. The complainant has adduced the evidence of PWs.1 and 2. However, PW.2 did not appear for cross examination. Hence, the trial Court dismissed the case for non-prosecution. Being aggrieved by the said order, the appellant has preferred this appeal.

3. I have heard the arguments on both sides.

4. On perusal of materials placed before this Court, it is evident that, on 02.03.2024, the trial Court has passed the following order:

> *"Case Called out Accused and counsel for accused is present. PW-2 absent. Kept by at 12.45 p.m.*
>
> *Case again Called out at 12.45 p.m. PW-2 and his counsel absent. Accused and his counsel are present. Kept at 2.45 p.m.*
>
> *Case again Called out at 2.45 p.m. Accused and his counsel are present. PW-2 and his counsel absent. Kept at 3.45 p.m.*

Case again Called out at 3.45 p.m. Accused and his counsel are present. PW-2 and his counsel absent. Kept at 4.30 p.m.

Case again Called out at 4.45 P.M. Accused and his counsel are present. PW-2 and his counsel absent. In spite of sufficient opportunity PW-2 not tender for cross examination. Hence, case is dismissed for non prosecution."

5. It is submitted by the learned counsel for the appellant that, PW.2/GPA Holder of the complainant's company was under medical treatment (KELOID Treatment) and he was required to visit and consult doctors at Sri Dharmasthala Manjunath Swamy Hospital, Hassan on dates of fixed appointments. Hence he could not appear before the Court.

6. Considering the submission of the learned counsel for the appellant, I am of the considered opinion that it is just and proper to provide one more opportunity to the appellant to adduce his evidence. Accordingly, I proceed to pass the following:

ORDER

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

(ii) The impugned order dated 02.03.2024 in C.C.No.8732/2021 passed by the XXVIII Additional Chief Metropolitan Magistrate, Bengaluru, is hereby set aside;

(iii) C.C.No.8732/2021 on the file of XXVIII Additional Chief Metropolitan Magistrate, Bengaluru shall be restored;

(iv) The trial Court is directed to provide opportunity to the complainant to adduce his evidence. Thereafter, shall proceed with the case in accordance with law;

(v) Parties are directed to appear before the trial Court on **25.11.2026** without seeking any further notice from the trial Court.

Registry is directed to send copy of this order to the concerned trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

PGG