HC-KAR
NC: 2026:KHC:59468
CRL.P No. 11005 of 2026
CNR: KAHC010505792026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 11005 OF 2026

BETWEEN:

S.NAGARATHNA
W/O R. SHIVANNA
AGED ABOUT 52 YEARS,
PROPRIETOR OF SHREE PANDURANGA SWAMY
TRADERS, APMC YARD, E AND F BLOCK,
CHITRADURGA - 577 501

RESIDING AT KOUSTUBHA NILAYA,
12TH CROSS, DAVALAGIRI, BADAVANE,
2ND STAGE, OPPOSITE, H.P PETROL BANK,
BHEEMASAMUDRA, ROAD, CHITRADURGA CITY,
CHITRADURGA - 577 501

...PETITIONER

(BY SRI. JAGAN MOHAN M.T., ADVOCATE)

AND:

H.M. NAGENDRAPPA,
S/O LATE MAHESHWARAPPA,
AGED ABOUT 60 YEARS,
OCCUPATION AGRICULTURIST
RESIDING AT KOGUNDE VILLAGE,
BHARAMASAGARA HOBALI,
CHITRADURGA TALUK, CHITRADURGA - 577 501

...RESPONDENT

(BY SRI. KALLESHAPPA K.S., ADVOCATE (ABSENT))

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RAMNATH HEGDE

CNR: KAHC010505792026

THIS CRL.P. IS FILED U/S.482 (FILED U/S.528 BNSS) CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO QUASH THE IMPUGNED ORDER DATED 07.07.2026 IN C.C.NO.2129/2021 PASSED BY THE I ADDL CIVIL JUDGE AND JMFC COURT AT CHITRADURGA ON APPLICATION FILED U/S.91 OF CRPC.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner. Respondent No.2 though served is not present before the Court.

2. This petition is filed challenging the order passed by the Trial Court rejecting the application filed by the petitioner/accused invoking Section 91 of the Code of Criminal Procedure, 1973.

3. In a proceeding under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act'), the petitioner/accused filed an application to summon the IT returns of the complainant from

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2020 to 2022 and also the Pan card, the statement of bank account of the complainant from 2020 to 2022 in addition to the pass book and account statement of the complainant from the banks in which the complainant has account. The documents are sought from the year 2020 till the date of filing the complaint.

4. The application is also filed to secure the property records in the name of the complainant and his wife. The said application was objected by the complainant. The Trial Court accepted the objection and the application is rejected.

5. Learned counsel for the petitioner would submit that amount mentioned in the cheque is Rs.5,20,000/-. The complaint is filed on the allegation that the complainant had lent Rs.5,00,000/- in cash as hand loan to the petitioner.

6. Learned counsel for the petitioner would submit that the petitioner has disputed the financial capacity of the complainant to advance Rs.5,00,000/- as hand loan. Thus, it is the contention that to substantiate the defence taken, the

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documents mentioned in the application are required and the Trial Court could not have rejected the application.

7. Learned counsel for the petitioner would submit that proceeding under Section 138 of the NI Act there is a presumption in favour of the complainant/respondent and the burden is on the petitioner/accused. Thus, to discharge the burden, those documents are very much required.

8. The Court has considered the contentions raised and perused the records.

9. From the impugned order passed by the Trial Court, it is noticed that the application rejected by referring to the judgment of the Apex Court in the case of ***John K. Abraham V. Simon C. Abraham and Another***[1]. The Trial Court has come to the conclusion that the complainant has to prove his case and accused cannot direct the complainant to act in a particular manner.

10. The Trial Court has also come to the conclusion that whether the complainant has paid the income tax or not is not

[1] ***(2014) 2 SCC 236***

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the matter to be considered by the Trial Court. The Court has also held that not filing income tax return would not automatically mean that the complainant had no source of income to advance the loan as alleged. The Trial Court has also observed that non-payment of income tax is a matter between the revenue and assessee and no adverse inference can be drawn in this regard only because of income tax return is not filed.

11. What is required to be noticed from the impugned order is that the Trial Court has not made any reference to the other documents sought to be summoned by the petitioner/ accused. The petitioner/accused has also made a prayer to secure the bank statement as well as the property records.

12. It is relevant to notice that in the statement of objection the petitioner has produced the RTC. The petitioner has referred to the RTC bearing Survey No.46/2 measuring 03 acres 17 guntas, 42/2 measuring 30 guntas, Survey No.42/1 measuring 02 acres 19 guntas, Survey No.97/4 measuring 03 acres 05 guntas, and Sy.No.6/2 measuring 09 acres 18 guntas.

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In other words, complainant has no objection to refer to the said records, though the documents are the xerox copies.

13. The Court is of the view that the petitioner's application to summon the bank statement of the complainant cannot be said to be untenable in law given the fact that the accused has to discharge the burden which is cast on him because of the presumption under Sections 118 and 139 of the NI Act.

14. Under the circumstances, impugned order is set aside partly.

15. Hence the following:

ORDER

i. Criminal Petition is ***allowed in part***.

ii. Impugned order dated 07.07.2026 in C.C.No.2129/2021 is partly set aside.

iii. The respondent / complainant shall produce the bank statement of his bank accounts before the Trial Court.

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iv. In case the petitioner / accused disputes the correctness of the xerox copies of the property records, the respondent shall also produce the certified copies of the same.

v. It is made clear that this Court has not expressed anything on the merits of the complaint.

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(ANANT RAMANATH HEGDE)
JUDGE

NMS
List No.: 2 Sl No.: 44