IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1488 OF 2022

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. MANJACHAR
   S/O BASAVACHAR
   NOW AGED ABOUT 50 YEARS
   AGRICULTURIST
   R/O MUNIYUR VILLAGE
   KASABA HOBLI
   TURUVEKERE TALUK
   TUMAKURU DISTRICT 572101

...PETITIONER

(BY SRI. CHANDRASHEKARA K A.,ADVOCATE)

AND:

Digitally signed by R MANJUNATHA
Location: HIGH COURT OF KARNATAKA

1. K P KRISHNAREDDY
   S/O LT POLANNA REDDY
   NOW AGED ABOUT 63 YEARS
   R/O BESIDE BDO OFFICE
   DABBEGATTA ROAD
   TURUVEKERE TOWN
   TUMAKURU DISTRICT 572101

...RESPONDENT

(BY SRI. SRINIVASA M G., ADVOCATE - ***ABSENT***)

THIS CRL.RP. IS FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE

JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATED 23.03.2021 PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND J.M.F.C., TURUVEKERE IN C.C.NO.05/2017 AND CONFIRMED BY THE LEARNED V ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIPTUR IN CRL.A.NO.10007/2021 DATED 26.09.2022 AND ACQUIT THE PETITIONER FOR THE OFFENCE P/U/S 138 OF N.I. ACT.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri Chandrashekara K.A., learned counsel for the petitioner. None appears for the respondent.

2. Revision petitioner who has suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (***NI Act***) in C.C.No.5/2017 and confirmed in Crl.A.No.10007/2021 is before this Court.

3. Facts of the case which are utmost necessary for disposal of the present petition are as under:

4. A private complaint under Section 200 of Cr.P.C. came to be filed alleging the commission of the offence

punishable under Section 138 of the NI Act against the revision petitioner by the complainant contending that accused had availed hand loan for purchase of the property and to meet the household expenses in a sum of Rs.2,50,000/- with a promise to repay the same. Towards the repayment, he issued a cheque bearing No.780315 drawn on Karnataka Bank Ltd., dated 31.08.2016 which, on presentation, came to be dishonored with an endorsement, *'Drawer's signature differs from specimen filed in this office and Funds insufficient'*. There was no response to the notice. Thereafter, complainant sought for action.

5. Learned Trial Magistrate after completing the necessary formalities secured the presence of the accused and recorded plea. Accused pleaded not guilty, and therefore, trial was held.

6. In order to prove the case of the complainant, he got examined himself as PW1 and one witness by name Shankaralingegowda as PW2 and placed on record six documentary evidence which were exhibited and marked as Exs.P1 to P6. There was no useful material in the cross-

examination of PW1 and PW2, but accused has failed to examine himself nor place any material evidence on record, so as to rebut the presumption available to the complainant under Section 139 of the NI Act, which resulted in conviction of the accused for the offence punishable under Section 138 of the NI Act and ordered to pay fine amount of Rs.2,55,000/-. The order of the conviction was challenged before the First Appellate Court in Criminal Appeal No.10007/2021.

7. Learned Judge in the First Appellate Court after securing the records heard the arguments of the parties in detail and on re-appreciation of the material evidence on record dismissed the appeal. Being further aggrieved by the same, accused is before this Court in this revision petition.

8. Sri K.A.Chandrasekhara, learned counsel for the revision petitioner by reiterating the grounds urged in the petition would vehemently contend that when the cheque has been dishonoured with an endorsement that signature differs, there was no offence committed under Section 138 of the NI Act, and therefore, Trial Magistrate ought not to have acted upon the second endorsement, namely, '*funds insufficient*' and

thus sought for allowing the Revision Petition. He would further contend that when there is no offence committed at all by the accused, there was no need to lead any defence evidence, and therefore, sought for allowing the Revision Petition.

9. Respondent counsel remained absent, and therefore, this Court perused the material on record in the light of the argument put forth on behalf of the petitioner. On such perusal of the material on record, it is noticed that the cheque Ex.P1 belongs to accused and signature found therein is disputed in as much as bank endorsement. Bank endorsement placed on record would go to show that the cheque was dishonored with two endorsements, namely, '*drawer's signature differs from specimen filed in this office and Fund insufficient*'.

10. Legal notice was admittedly served on the accused, but there was no reply. The learned Trial Magistrate took into consideration the discrepancy in the endorsement and has discussed the same in para 16 as under:

> *"16. As per the above discussed evidence the accused raised the defence that the complainant has no financial capacity to lend such amount and accused never borrowed any amount and cheque is not issued*

for any legally recoverable debt. As per the endorsement, cheque is dishonored for two reasons one is for 'funds insufficient' and another is 'Drawer's signature differs'. The accused counsel in the cross-examination of PW1 only put the suggestion regarding signature appears on Ex.P1. The accused never raised defence that cheque in question at Ex.P1 is not belonged to his bank account. Though there is a difference of signature appears on Ex.P1 and Ex.P5, but the signature appears at Ex.P1(a) is squarely tallies with the signature of the accused on his vakalath. There is no suggestion put that signature appears on Vakalath and signature at Ex P1(a) are differs. The accused put his signature to the Ex. P1 which is squarely tallies with the signature appears on his Vakalatha filed before the court and also the same is tallies with the signature of the accused put in the plea form and statement recorded under Section 313 of Cr.P.C. As provided under Section 73 of Indian Evidence Act, on comparison of signature appears at Ex.P1(a) with the signatures of accused on the vakalath, plea form and statement, the same are tallies with each other and are belonged to accused only. Accused never disputed his signatures on the vakalath, plea form and statement. From this it appears that the accused intentionally put the signature differently in Ex.P1 and Ex.P5. By taking into consideration of Ex.P1, vakalath, plea form and statement one thing is clear that signatures on those documents are belonged to accused only. PW1

deposed that only to cheat the complainant, the accused put the signature in different manner. When accused not disputed that the cheque is not belonged to his account and when the same is dishonored for the reasons mentioned in the bank endorsement, then there is a presumption that the holder of the cheque is holder in due course for legally recoverable debt. May be accused with intentionally to cheat the complainant put the signature in different manner that of his signature put in the specimen form at Bank. Where the cheque is belonged to accused and the same is comes to the custody of complainant and same is dishonored on its presentation, then certainly accused is guilty of the offence punishable under Section 138 of Negotiable Instruments Act. It is not the defence of the accused that the complainant by stealing the cheque of accused forged his signature and presented. It is also not the case of the accused that signature at Ex.P1(a) is not belonged to him. When accused not disputed the signature at Ex P1(a), then endorsement regarding Drawer's signature differs is of no consequence to disprove the version of complainant. The presumption lies in favour of complainant as provided under Section 139 of Negotiable Instruments Act, which is not rebutted by the accused. Though, the accused is not stepped into witness box, but effectively by cross-examining the PW1 not at all raised probable defence."

11. The Trial Magistrate also noted that presumption available to the complainant in view of the oral testimony of PW1 and PW2 is not rebutted by the accused by stepping into the witness box and deposing that the signature found on Ex.P1 is not his signature. The signature found on the vakalath filed on behalf of the accused tallies with the signature found on Ex.P1 as well.

12. Taking note of these aspects of the matter, conviction order recorded by Trial Magistrate confirmed by the First Appellate Court does not need any interference that too in the limited jurisdiction. Hence, the following:

ORDER

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

ii. While maintaining the conviction of the accused for the offence punishable under Section 138 of the NI Act, fine amount of Rs.2,55,000/- is reduced to Rs.2,50,000/- and entire sum of Rs.2,50,000/- is ordered to be paid as compensation to the complainant.

iii. A sum of Rs.5,000/- imposed by the Trial Magistrate confirmed by the First Appellate Court, towards defraying expenses of the State stands set aside.

iv. Office is directed to return the Trial Court records with a copy of this order forthwith for issue of modified conviction warrant.

Sd/-
(V SRISHANANDA)
JUDGE

HNM
List No.: 2 Sl No.: 36