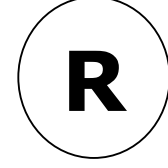




IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026



BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.411 OF 2026

BETWEEN:

SRI P K BOPANNA
S/O LATE KARIAPPA
AGED 45 YEARS
R/AT HEBBETTAGERI VILLAGE
K NIDUGANE POST
MADIKERI TALUK
KODAGU DISRICT
KARNATAKA

...PETITIONER

(BY SRI VINOD KUMAR M, ADVOCATE)

AND:

SRI P S POOVAIAH
S/O SUBBAIAH
AGED 62 YEARS
R/AT HEBBETTAGERI VILLAGE
K NIDUGANE POST
MADIKERI TALUK
KODAGU DISTRICT
KARNATAKA

...RESPONDENT

(RESPONDENT SERVED, UNREPRESENTED)





THIS CRL.RP IS FILED U/S 438 R/W 442 OF BNSS PRAYING TO SET ASIDE THE JUDGMENT DTD 17.02.2026 IN CRL.A.NO.62/2023 OF PRL. DISTRICT AND SESSIONS JUDGE, KODAGU AT MADIKERI AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This revision petition is filed against the judgment dated 28.06.2023 passed in C.C.No.444/2019 by the Trial Court and against the judgment dated 17.02.2026 passed in Crl.A.No.62/2023 by the Appellate Court.

2. Heard the learned counsel appearing for the petitioner.

3. The case of the complainant before the Trial Court is that the complainant and the accused were well known to each other since from several years. With that acquaintance, accused approached the complainant for financial assistance of Rs.1,50,000/- agreeing to repay the



same within 15 days and also issued a posted dated Cheque bearing No.281280 dated 13.06.2018. As per the request of the accused, the complainant has not presented the said Cheque within due date. Thereafter, on 05.12.2018, the complainant presented the said Cheque and the same was dishonoured as 'funds insufficient'. Hence, issue the legal notice but the accused failed to reply to the said notice and also not repaid the amount. Hence, complaint was filed against the accused for the offence punishable under Section 138 of N.I. Act.

4. The Trial Court considering both oral and documentary evidence placed on record comes to the conclusion that complainant has proved the existence of legally enforceable debt and the liability existing on accused. Thus, convicted the accused for the offence punishable under Section 138 of N.I. Act. The Appellate Court also having reassessed both oral and documentary evidence placed on record comes to the conclusion that Trial Court has rightly convicted the accused and confirmed the judgment of the Trial Court.



5. This revision petition is filed challenging the concurrent finding of conviction and sentence of both the Courts.

6. The counsel for the petitioner would vehemently contend that both the Courts have committed an error in considering both oral and documentary evidence placed on record. Hence, interference of this Court is required.

7. This Court heard the matter in part on the previous date of hearing on the issue raised by the petitioner counsel that the subject matter of the cheque was presented before the bank after 5 months 22 days and validity of the cheque is only for a period of 3 months. In this regard, this court directed the counsel for the petitioner to produce the RBI guidelines in taking the decision reducing the period of 06 months to 03 months. Hence, today, the counsel produced the copy of the letter of the Reserve Bank of India dated 04.11.2011. On perusal of the same, it discloses that the Reserve Bank is satisfied that in public interest and in the interest of banking policy, it is necessary to reduce the



period within which Cheques/drafts/pay orders/banker's cheques are presented for payment from 06 months to 03 months from the date of such instrument. Accordingly, in exercise of the powers conferred by Section 35A of the Banking Regulation Act, 1949, Reserve Bank hereby directs that with effect from 01.04.2012, bank should not make payment of Cheques/drafts/pay orders/banker's cheques bearing that date or any subsequent date, if they are presented beyond the period of 03 months from the date of such instrument.

8. The counsel for the petitioner in support of his contention also relied upon the judgment of the Apex Court reported in **(2001) 3 SCC 609** in the case of **SHRI ISHAR ALLOY STEELS LTD. vs JAYASWALS NECO LTD.** and brought to notice of this court paragraphs 7, 8 and 10, wherein held that the statutory period for presentation of Cheque was within 06 months.

9. The counsel contend that in 2001, the validity of the Cheque is 06 months. Subsequent to the RBI letter dated



04.11.2011, from 01.04.2012, the period of 06 months is reduced to 03 months. In the case on hand, the subject matter of cheque was presented on 05.12.2018 and cheque was dated 13.06.2018. Thus, it is clear that the Cheque was presented after the statutory period fixed by the BRI. The said fact was not taken note of by the Trial Court as well as the Appellate Court.

10. The counsel also relies upon the judgment of the Kerala High Court sitting at Ernakulam in the case of **CRL. MC No.8842/2019** decided on **14.02.2023** and brought to notice of this Court paragraph 3 wherein it is held that the offence under Section 138 will be attracted only if the cheque is presented within 6 months from the date on which it is drawn or within a period of its validity whichever is earlier. The Reserve Bank has fixed the period of validity of cheques as 3 months. As the cheque was presented after the validity period, the offence under Section 138 is not attracted.

11. Having considered the factual aspects of the case that the cheque was considered by the bank after the



statutory period of three months giving an endorsement as 'funds insufficient' and not on the ground that cheque is invalid. Even though the said ground was urged in the appeal before the appellate Court and though the appellate Court discussed the same in paragraphs 15 and 16, not considered the said fact. In view of the principles laid down in the judgments referred supra and also in view of the decision taken by the RBI in its letter dated 04.01.2011, the validity of the cheque is only for a period of 3 months. Hence, in the case on hand, there cannot be any proceedings under Section 138 of N.I. Act since the subject matter of Cheque was presented after three months.

12. In view of the discussions made above, I pass the following:

ORDER

The revision petition is allowed.

The impugned judgment of conviction and sentence dated 28.06.2023 passed in C.C.No.444/2019 by the Trial



Court and the judgment of confirmation dated 17.02.2026 passed in Crl.A.No.62/2023 by the Appellate Court are set aside. Consequently, the petitioner is acquitted for the offence punishable under Section 138 of N.I. Act.

Sd/-
(H.P.SANDESH)
JUDGE

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