



CNR: KAHC010276122024

NC: 2026:KHC:38100
CRL.RP No. 636 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO.636 OF 2024

BETWEEN:

1. SRI MUDDURA M. SOMANNA @ PRASAD,
S/O M.B.MOTAIAH,
AGED ABOUT 37 YEARS,
RESIDING AT RIVER SIDE ESTATE,
AIYANGERI BETTAGERI VILLAGE,
SUNTICOPPA POST,
KODAGU-572137.

...PETITIONER

(BY SRI. PRASHANTH U.T., ADVOCATE)

AND:

1. SRI. B. RAMESH,
S/O PUKRAM,
AGED ABOUT 48 YEARS,
RESIDING AT MATAJI JEWELLERS,
B.M.ROAD, SUNTICOPPA,
KODAGU DISTRICT.

...RESPONDENT

(BY SRI. LETHIF B., ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT DATED 01.02.2024 PASSED IN CRL.A.NO.55/2022 ON THE FILE OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU, MADIKERI AND SET ASIDE THE CONVICTION ORDER DATED





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02.07.2022 PASSED IN C.C.NO.443/2019 ON THE FILE OF
ADDITIONAL CIVIL JUDGE AND J.M.F.C., MADIKERI.

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

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

ORAL ORDER

This matter is listed for admission. Heard the learned
counsel for the revision petitioner and the learned counsel for
the respondent.

2. This revision petition is filed against the concurrent
finding of the Trial Court and the Appellate Court.

3. The records disclose that P.W.1 was not cross-
examined before the Trial Court and the accused even not led
any defence evidence. The learned counsel for the revision
petitioner has filed a memo along with the copy of the legal
notice dated 23.02.2019 got issued by the respondent and
referring to this document, the learned counsel submits that in
the notice not referred to the date on which the amount of
Rs.10,00,000/- was borrowed. The learned counsel also
brought to the notice of this Court, the copy of the complaint,
wherein it is stated that the accused had approached the



complainant and borrowed an amount of Rs.10,00,000/-. On perusal of the document of the complaint, it is specifically mentioned that in the month of October 2018, the accused approached the complainant and borrowed a sum of Rs.10,00,000/- as hand loan to meet his urgent financial commitment. Having taken note of the same, specific averment is made that in the month October 2018, the accused borrowed a sum of Rs.10,00,000/- to meet his urgent financial commitment. In the sworn statement also stated the same. The copy of the order sheet is also produced before the Court. The records disclose that inspite of several opportunities were given to D.W.1, not cross-examined P.W.1. The learned counsel prays this Court to remand the matter and to give an opportunity.

4. The learned counsel for the respondent would submit that the question of remand does not arise. The learned counsel submits that even inspite of service of summons, the accused did not appear before the Court and warrant was issued on 07.09.2019, 03.03.2020 and 28.07.2021. The learned counsel also would submit that when



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the case was posted for cross-examination of P.W.1 on 08.11.2019, 27.12.2019, 08.01.2020, 20.01.2020, 03.02.2020, 03.03.2020, 01.10.2020, 17.02.2021. 05.03.2021, 09.03.2021, 28.07.2021 and 15.11.2021, he was not cross-examined. The learned counsel also brought to the notice of this Court that the accused not even pursued the matter and for about 21 times because of his non-appearance, EP was filed and the same was allowed. The learned counsel submits that even the matter was referred twice for settlement before the Lok-Adalath on 28.11.2019 and 20.11.2020 and he did not pursue the matter and hence, the question of remanding the matter once again does not arise.

5. The case of the complainant before the Trial Court while initiating the proceedings under Section 138 of the Negotiable Instruments Act is that, the accused approached the complainant in the month of October 2018 and borrowed Rs.10,00,000/- in order to meet his urgent financial commitment and promised to repay the same within four months. In spite of due demands by the complainant, the accused failed to repay the loan. Thereafter, on 14.02.2019,



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the accused issued a cheque in favour of the complainant and when the said cheque was presented, the same was returned with an endorsement "funds insufficient." Hence, notice was issued and it was served on the accused and no reply was given. Hence, complaint was filed and cognizance was taken and the accused appeared before the Trial Court and did not plead guilty and claimed trial. The complainant in order to substantiate his case examined himself as P.W.1 and got marked the documents at Exs.P.1 to 5. The accused even not led any defence evidence and even not cross-examined P.W.1, even though the complainant was present 12 times.

6. Having taken note of the order sheet which is produced by the learned counsel for the revision petitioner himself, it is very clear that it is nothing but an abuse of Court process. He made the complainant to be present before the Court for his cross-examination 12 times and instead of appearing before the Court, exemptions were filed on 21 dates of hearing. When this Court observed that there is no cross-examination and no defence evidence and nothing is there to consider the revision petition before this Court, the learned



counsel for the revision petitioner insisted this Court to consider the order sheet, which goes against him that P.W.1 was present 12 times before the Court and exemptions were filed at the instance of the accused 21 times. The learned counsel brought to the notice of this Court that the counsel did not cross-examine the witness P.W.1. But the order sheet discloses that counsel on record before the Trial Court made the submission before the Court that there was no any instructions from the accused. The accused even gone to the extent of filing a complaint against the advocate, who was on record before the Trial Court, that too 2 months prior to filing of this revision.

7. Having taken note of the conduct of the petitioner, it is nothing but a harassment made to the complainant. Though the complainant was very much present before the Court 12 times for his cross-examination, cross-examination was not done through his counsel and instead of that 21 times exemption application was filed and the Court also considered the same and allowed the exemption on several occasions. It is a clear case of abuse before the Trial Court when the



complainant was present 12 times and instead of cross-examining the complainant seeks for remand of the matter before this Court. Having taken note of all these materials on record, it is not a case for remand and also it is a classic example of abuse of process. The accused even gone to the extent of filing a complaint against the advocate and instead of giving instructions, complaint was given to the Bar Council to take action against the counsel on record, who was very much present before the Trial Court and filed exemption application 21 times on behalf of the accused. Hence, it is not a case for remand of the matter. The case was filed in 2019 and disposed of in the year 2022 vide order dated 02.07.2022 almost after three years. When such being the case, the petition is liable to be dismissed with exemplary cost of Rs.1,00,000/- payable at the Registry within two weeks from today. If the cost is not deposited before the Registry within two weeks, the Deputy Commissioner of Madikeri is directed to recover the same as land revenue initiating the proceedings against the revision petitioner herein.



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8. The Registry is directed to communicate this order to the Deputy Commissioner, if the cost is not deposited within two weeks from today for recovery of the cost amount.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 23