

(2010) 12 KAR CK 0062
In the Karnataka High Court
Case No : Criminal Appeal 833 of 2009

Bangalore District and Bangalore Rural District Central Co-operative Bank Ltd.

APPELLANT

Vs

M. Puttaiah and K. Puttaswamy

RESPONDENT

Date of Decision : 03-12-2010

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 69

Citation : (2010) 12 KAR CK 0062

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : Gopal V. Bilalmane, for the Appellant; K. Venkataramana Babu, for the Respondent

Final Decision : Allowed

Judgement

Huvadi G. Ramesh, J.—Appeal is by the complainant challenging the order of the XI Addl. CMM, Bangalore in CC 2286/1998 on 26th September, 2009.

2. Complainant is a Co-operative. Bank which, on sanction, has lent the loan to the accused and towards repayment, the accused had issued a cheque dated 13.8.1997 for Rs. 20 lakhs drawn on Citizen Co-operative Bank, Rajajinagar Branch, Bangalore. On presentation of the cheque, the same was returned for insufficient funds. After issuance of legal notice during October 1997, for non-payment, complaint was filed and along with the complaint, statement of account was also filed. The trial court after inquiry, dismissed the complaint holding that it is a time barred debt.

3. According to the Appellant's counsel, as per Section 69 of the Karnataka Co-operative Societies Act, 1959, the limitation period for recovery is six years. According to him, the debt has been acknowledged by the accused and towards the same, cheque was issued on demand subsequently. Accepting the debt when the cheque was issued, it was towards a legally enforceable debt. Accordingly, he

has sought for setting aside the order of the trial court and allowing the appeal.

4. Admittedly, in the case on hand, borrowing of the loan by the accused is not in dispute. Towards the amount borrowed, according to the complainant, endorsing the liability, on demand, cheque has been issued subsequently. On presentation of the cheque issued within six months from the date of its issuance, the same was dishonored for insufficient funds. The cheque is shown to have been presented within six months and according to the complainant, there is an endorsement acknowledging the debt. Apart from that, the cheque was issued towards a legally enforceable debt and even as per the provisions of the Karnataka Co-operative Societies Act, time limitation for recovery of the amount is six years. Without looking into the decision relied upon, it is contended, the trial court has dismissed the complaint.

5. There is force in the contention of the complainant's counsel. Accordingly, the appeal is allowed. Impugned order is set aside. Matter is remitted to the trial court for disposal of the same in accordance with law after affording opportunity to both the parties. Parties are directed to appear before the trial court on 28th December, 2010. Thereafter, the trial court to dispose of the matter in three months. Send back the records.