

(2026) 08 KAR CK 2257

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL REVISION PETITION NO. 158 OF 2025

Smt. Roopa N

APPELLANT

Vs

Smt. Reeta P Chowdari

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Code of Criminal Procedure, 1973 — Section 397, 401

BNNS — Section 438, 442

Negotiable Instruments Act — Section 138, 139

Citation : (2026) 08 KAR CK 2257

Hon'ble Judges : H.P. Sandesh, J

Bench : Single Bench

Advocate : Sri. M B Chandrachooda, Sri. Rajashekara R V

Final Decision : Dismissed

Judgement

This Court on 29.07.2026 had heard the matter in part. The matter was settled before this Court and the petitioner had agreed to pay ₹ 3,10,000/- as against ₹ 3,22,000/-. Today, learned counsel for the petitioner submits that the petitioner is not able to pay the said amount.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. The factual matrix of the case of complainant before the Trial Court, invoking Section 138 of the Negotiable Instruments Act, is that the accused had borrowed a sum of ₹ 2,50,000/- from the complainant and, towards repayment of the said amount, issued a post-dated cheque bearing No.217188 dated 10.06.2020, drawn on the State Bank of India, Ashoka Road, Sagar Branch, for a sum of ₹ 2,50,000/- in favour of the complainant. When the said cheque was presented for encashment, it was returned with an endorsement stating "Funds Insufficient". Thereafter, the complainant issued the statutory legal notice. The said notice was served on the accused and, as the accused failed to comply with the demand made therein, the complainant filed the complaint for the offence

punishable under Section 138 of the Act.

4. The Trial Court took cognizance of the offence and secured the presence of the accused. The accused did not plead guilty and claimed to be tried. Accordingly, the complainant examined herself as PW-1 and got marked Exhibits P-1 to P-19. The accused did not lead any defence evidence except cross-examining PW-1. The only defence taken during the course of cross-examination of PW-1 was that the husband of the complainant had obtained a blank cheque from the accused as security and that the same had been misused by filing the present complaint to gain unlawful advantage. The said suggestion was denied. Except making the said suggestion, nothing was elicited from PW-1 and no material was placed before the Court to substantiate the defence that the cheque had been obtained only as security. However, the accused has not disputed her signature on the cheque. The only defence was that the husband of the complainant had taken the cheque and misused the same. However, the accused neither entered the witness box nor led any evidence in support of the said defence.

5. The Trial Court took note of the issuance of the cheque as well as the issuance of the notice. Ex.P7 is the postal acknowledgment evidencing service of the notice. Though the learned counsel appearing for the petitioner vehemently contend that the notice was not served, no evidence was led to rebut the evidence of service or to establish that the address mentioned in the notice did not belong to the accused. When the address itself is not disputed and no contrary evidence is placed on record, such a defence cannot be accepted.

6. The other defence was that the complainant had no financial capacity and said aspect has been discussed in paragraph No.17 of the judgment. In support of the said aspect, the complainant produced Ex.P10 to P19. Ex.P10 to P17 disclose the financial transactions and accounts maintained by the complainant. Ex.P10 is the certified copy of the income tax return, which discloses that the complainant is an income tax assessee, and Ex.P11 to P17 are certified copies of the account statements.

7. Learned counsel for the petitioner would submit that, on perusal of these documents, except for a transaction of upto ₹ 5,000/-, there are no transactions more than that. However, the said submission cannot be accepted, since the account statements disclose transactions involving amounts exceeding ₹ 5,000/-, such as ₹ 25,000/-, ₹ 38,000/- and ₹ 33,000/-. It is also evident that, in the month of September 2016, an amount of ₹ 3,00,000/- was deposited before the Court. No doubt, the learned counsel appearing for the petitioner would submit that the said amount was withdrawn on the very next day. However, the contention that the complainant did not having more than ₹ 5,000/- and, therefore, had no financial capacity to lend the amount cannot be accepted. The Trial Court has also taken note of the said fact into consideration.

8. The said aspect has been considered by both the Trial Court as well as the Appellate Court. The defence taken by the accused that the husband of the

complainant had taken the blank cheque was not substantiated and no rebuttal evidence has been placed on record and, therefore, the statutory presumption available under Section 139 of the Negotiable Instruments Act has not been rebutted. The accused has also not made out any preponderance of probability doubting the case of complainant, question of entertaining the revision petition also doesn't arise.

9. The scope of revision is very limited and only if order suffers from any its legality or correctness, then only this Court can entertain the revision petition and the same is not warranted and there is no any miscarriage of justice while appreciating the evidence of PW1 and nothing has been elicited in the cross examination of PW1 except making a suggestion. Hence no ground is made out to entertain the revision petition.

10. Accordingly, the revision petition is ***dismissed***.