

(2026) 08 KAR CK 2145

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL REVISION PETITION NO.858 OF 2024

Sri. G. Chandrashekhar Shetty

APPELLANT

Vs

Sri Ramesh Acharya

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Cr.P.C — Section 397, 401
Negotiable Instruments Act — Section 138

Citation : (2026) 08 KAR CK 2145

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

Bench : Single Bench

Advocate : Sri. Ramesh Gouda K, Sri. Prasiddaraj

Final Decision : Dismissed

Judgement

This matter was heard in part earlier and the learned counsel for the revision petitioner took time in the previous occasion to settle the matter and now the learned counsel submits that the matter is not settled.

2. The factual matrix of the case of the complainant before the Trial Court while invoking Section 138 of the Negotiable Instruments Act is that, the complainant and the accused are friends. The accused requested the complainant to provide a financial help to the tune of Rs.40,000/- for the purpose of his urgent necessities. As per the request of the accused, the complainant provided a financial help to the tune of Rs.38,884/- to the accused on 01.05.2011. The accused though undertook to repay the amount, he did not repay the amount. When the complainant demanded for repayment of the amount, the accused issued a cheque dated 14.07.2011 in favour of the complainant in discharge of the said amount and when the said cheque was presented, it was dishonoured with an endorsement "funds insufficient". To that effect, the complainant examined P.W.2 Bank Manager. Though defence was taken that the same was returned with an endorsement "signature differs", but P.W.2 Bank Manager categorically deposed that it was returned with an endorsement "funds

insufficient". Though defence was taken in the reply statement that there was no such transaction between the complainant and the accused, the defence which was taken during the course of cross-examination is contrary to the same and the same is taken note of by the Trial Court in paragraph No.16, wherein discussion was made with regard to the admission on the part of D.W.1. The Trial Court in paragraph No.17 taken note of that the cheque was returned as per Ex.P.2 for insufficient funds and also taken note of the evidence of P.W.2. The Trial Court also taken note of that in reply the accused has not stated that the cheque was taken by the complainant and his signature was misused. Even defence was taken that cheque was lost, but the accused has not produced any convincing evidence to believe that he has not issued the alleged cheque in favour of the complainant and the same is considered in paragraph No.18 and no explanation is given in his 313 statement and hence, the Trial Court convicted and sentenced the accused.

3. The same is questioned before the Appellate Court and the Appellate Court considered the grounds urged in the appeal and considering the evidence of P.W.1, P.W.2 and D.W.1, in paragraph No.16 taken note that it is clear evidence by the accused that he used to lock his shop whenever he went outside and always used to take sufficient precautions regarding using of cheque leaf in his day to day business without giving any chance for trespassing his shop to any persons and comes to the conclusion that the defence is not probable and no rebuttal evidence before the Court and hence, confirmed the judgment of the Trial Court.

4. The main contention of the learned counsel for the revision petitioner before this Court is that both the Courts failed to consider the defence which was taken that, signature on the cheque does not belongs to him.

5. Though the accused denies the same, he has not taken any steps to send the document to the handwriting expert. The defence which was taken in the reply notice is contrary to the cross-examination made to P.W.1 and the same is also taken note of by both the Trial Court as well as the Appellate Court. When such material is considered, there is no any miscarriage of justice in considering the defence of the accused and unless the order of the Trial Court and the Appellate Court suffers from its legality and correctness, the question of considering the revision petition does not arise. Hence, no ground is made out to entertain the revision petition.

6. Accordingly, the criminal revision petition is dismissed.