

(2026) 08 KAR CK 2274

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL REVISION PETITION NO. 90 OF 2025

Sri. Prem Kumar

APPELLANT

Vs

Sri. Chandrashekar

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Cr.PC — Section 397 R/W 401
BNNS-U/S 438 R/W 442
N.I. Act — Section 138, 139

Citation : (2026) 08 KAR CK 2274

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

Bench : Single Bench

Advocate : SRI. ADINARAYAN, SRI. HONNUR ALI

Final Decision : Dismissed

Judgement

This matter is listed for admission. I have heard learned counsel for the petitioner and learned counsel for the respondent.

2. The factual matrix of case of the complainant before the Trial Court is that complainant and accused are known to each other and the accused approached the complainant on 11.12.2017 for hand loan of Rs.4,00,000/- for the purpose of his new business establishment in Bengaluru and his family necessity. On the request made by the accused, the complainant has arranged the amount to lend a sum of Rs.4,00,000/- on 09.02.2018. The accused agreed to repay the same within 3 years, accordingly the complainant waited for 3 years and thereafter, the complainant requested the accused to return the amount. But, the accused requested to grant another 6 months time to repay the amount and then, he issued a Cheque dated 10.09.2020 for Rs.4,00,000/-. When the Cheque was presented, the same returned with a shara 'Drawer Signature Differs and the same has been intimated to the accused, but he neither replied nor repaid the amount. Hence, the complainant got issued the legal notice to the accused on 24.09.2020 through RPAD calling upon him to repay the amount and the same

was duly served. The accused has sent reply dated 08.10.2020, but failed to comply with the demand. Hence, complaint was filed, the Trial Court took cognizance, the accused was secured and he did not plead guilty and claims for trial.

3. In order to prove the case, the complainant is examined as P.W.1 and got marked the documents Exs.P1 to P8 and the accused did not examine any of the witness and not marked any documents.

4. The only defence which was taken before the Trial Court is that that there was transaction between the accused and husband of sister i.e., co-brother and the same was taken note of by the Trial Court while considering the matter in paragraph No.32. But, at one breath, he says that Cheque was lost and to that effect, he gave the complaint on 08.09.2019 to Mahadevapura Police. When the suggestion was made that Cheque which was issued by the complainant was lost, the same was denied by complainant-P.W.1. But, suggestion was made that when the matter has gone to the Police, it was settled for an amount of Rs.3,00,000/- and suggestion was also made to that effect and the same was denied. But, P.W.1 categorically says that Police only mentioned the amount as Rs.4,00,000 and the Trial Court also taken note of document Ex.P7 which was relied upon by learned counsel for the accused and P.W.1 says that the said complaint was given by accused himself. But, in the said complaint, instead of mentioning Rs.4,00,000/-/-, he has mentioned as Rs.3,00,000/-. But, P.W.1 categorically says that accused was liable to pay that amount and other defence was also taken with regard to transaction between co-brother-Chandrasekhar and he had borrowed the amount from him and was paying the interest at 3%, but could not pay the interest. The said averment made in Ex.P7 is also taken note of and Ex.P7 came into existence in the presence of the Police and the Trial Court taken note of all these factors into consideration while considering the defence which was taken by the accused during the course of cross-examination of P.W.1 and also taken note of the reply which was given in terms of Ex.P5 dated 08.10.2020 and on coming to know the contents of the documents Exs.P6, P7 and P8, the defence of the accused was not accepted and the case of the complainant is accepted. Hence, convicted and sentenced the accused.

5. The First Appellate Court also having re-appreciated both oral and documentary evidence comes to the conclusion that the very case of the accused was suggested to P.W.1 and nothing is elicited and also matter went to the Police Station and the transaction has taken place between the complainant and accused, wherein the document Ex.P7 came into existence and the same was taken note and on re-appreciation, the First Appellate Court comes to the conclusion that defence of the accused is not substantiated and confirmed the same.

6. The contention of learned counsel appearing for the revision petitioner before this Court is that both the Courts failed to consider the defence. But, except the cross-examination of P.W.1, revision petitioner, did not enter into the witness box

even to substantiate whether the amount is mentioned as Rs.3,00,000/- or Rs.4,00,000/- and the suggestion made to P.W.1 with regard to the transaction as well as issuance of the Cheque was categorically denied. When the Cheque was presented for encashment, it was returned with an endorsement that 'Drawer Signature Differs'. But, accused also not sent the said Cheque to the handwriting expert that Cheque not belongs to him. When there is no such material before the Court, I do not find any error on the part of the Trial Court and the First Appellate Court in appreciating the evidence and the defence was not substantiated by placing any rebuttable evidence under Section 139 of N.I. Act. This Court can exercise the revisional powers, only if there is miscarriage of justice in appreciating the evidence available on record and no such preponderance of probability before the Court and the very transaction between the complainant and the accused is not doubted. Under the circumstances, no ground is made out to entertain the revision petition.

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