

# Hkp Road Cross vs Sri. Syed Kabir on 17 February, 2023

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KABC0C0191242021

IN THE COURT OF XIV ADDL. CHIEF METROPOLITAN  
MAGISTRATE, MAYO HALL, BENGALURU

PRESENT

SRI.OONKAR MURTHY K.M.,  
B.Sc., L.L.M.,  
XIV Addl. C.M.M., Bengaluru

DATED ON THIS 17 th DAY OF FEBRUARY 2023

CASE NO C.C. NO.55948/2021

Sri. Syed Wajid  
S/o. Late. Syed Anwar  
Aged about 45 years,  
R/at No.11, E No.4 th Street,  
COMPLAINANT HKP Road Cross,  
Shivajinagar,  
Bengaluru-560 051

(By Sri. S.I. Syed Munaver - Adv.,)  
ACCUSED Sri. Syed Kabir  
S/o. Syed Abdul Qudir  
Aged about 50 years,

2

R/at No.28, 'D' Street,  
Baiderahalli, Benson Town,  
Bengaluru - 560 046.  
And also R/at No.10,  
2 nd Floor, C No.4 th Street,  
Nala Road, Shivaji Road Cross,  
Shivajinagar,  
Bengaluru-560 051

(By Sri. Satish G.S - Adv.,)

OFFENCE U/s.138 of Negotiable Instruments Act  
PLEA OF THE  
ACCUSED Pledaded not guilty

FINAL ORDER

Accused is convicted

Digitally signed by  
ONKARMURTHY

ONKARMURTHY K M  
KM

Date: 2023.02.17  
16:28:02 +0530

(ONKAR MURTHY K.M)  
XIV ADDL. C.M.M.,  
BENGALURU

JUDGMENT

This is a private complaint filed by the complainant against the accused under Sec.200 of Cr.PC alleging the offense punishable under Section 138 of the Negotiable Instruments Act, 1881.

The brief facts of the complaint are as follows ;

2. The complainant and the accused have engaged in real estate business and have developed intimacy towards each other. The accused had approached the complainant with an offer to sell a site/house property situated at Shivajinagar and with a promise to get the original documents of the said property, the accused has received an advance amount of Rs.9 lakhs in the year 2016. Rs.3 lakhs on 28.04.2016 and Rs.2 lakhs on 24.06.2016, in all Rs.5 lakhs has been transferred from S.B A/c No.90010100003980 maintained at UCO Bank, Vasanthnagar Branch, Bengaluru and the remaining balance of Rs.4 lakh was paid by cash. The accused has promised to complete the sale transaction with a period of three months, but has failed to do it within time and has agreed to return the said amount without any interest. The accused has paid Rs.2,95,000/- in installments during the year 2018 - 2019 by cash and has promised to pay balance advance amount of Rs.6,05,000/- within a period of six months. He has issued a post dated cheque bearing No.726973 dtd.22.06.2020 for Rs.6,05,000/- drawn at State Bank of India, Shivajinagar, Infantry Road branch, Bengaluru. The accused has also executed a Memorandum of Understanding dtd.06.12.2019 to that effect.

2.1) The complainant has presented the said cheque for realization with his banker i.e., State Bank of India, Lady Curzon Road branch, Bengaluru on 15.09.2020. But the said cheque got dishonored vide bank memo dtd.21.09.2020 for the reason "Insufficient Funds". Thereafter, the complainant has issued legal notice to both addresses of the accused on 12.10.2020 demanding payment of cheque amount within 15 days from the date of receipt of notice. The notice sent to the Benson Town address of the accused returned unserved on 16.10.2020. The notice sent to Shivajinagar address of the accused has been served on 13.10.2020. In spite of it, the accused has not paid the cheque amount. Therefore, the accused has committed the offense punishable under Sec.138 of Negotiable Instruments Act, 1881. Hence, the complaint.

3. On filing of the complaint, cognizance has been taken for the offense punishable under Sec.138 of Negotiable Instruments Act, 1881 and a private complaint was initially registered in PCR.

No.50210/2021. Sworn statement of the complainant was recorded. On hearing the complainant and considering the documents on record, summons was issued to the accused by registering the criminal case in C.C. No.55948/2021. Later in response to the summons issued, the accused has appeared before the court through his counsel. The accused has been enlarged on bail. Plea of the accused has been recorded. The accused has pleaded not guilty and claims to be tried for which the matter was posted for trial.

4. The sworn statement of the complainant which has been recorded as CW.1 is treated as his examination-in-chief in view of the decision of the Hon'ble Apex Court reported in (2014) 5 SCC 590 - Indian Bank Association and others Vs Union of India and others-[W.P. (civil) No.18/2013]. To prove the guilt against the accused, the complainant has relied on the documents marked at Ex.P1 to Ex.P10. The incriminating circumstances in the evidence of the complainant have been brought to the notice of the accused and his statement under Sec.313 of Cr.PC was recorded. The accused has denied the incriminating circumstances and also has stated that he has repaid the amount to the complainant now and then. The accused has not led any defense evidence nor has produced any of the documents on his behalf.

5. Heard the arguments of both the counsels. The counsel for the accused has filed his written arguments and also relied on the following decisions;

- i) K. Subramani Vs K. Damodara Naidu - [(2015) 1 SCC 99].
- ii) Krishna Janardhan Bhat Vs Dattatraya G. Hegde - [(2008) 4 SCC 54].
- iii) Vishal Vs Prakash Kadappa Hegannawar - (2020 (3) KCCR 2373).

6. Perused the materials on record. The points

that arise for my consideration are:-

- 1) Whether the complainant proves that the accused has issued cheque bearing No.726973 dtd.22.06.2020 for Rs.6,05,000/-

drawn at State Bank of India, Shivajinagar Branch, Bengaluru for discharge of legally recoverable debt and the said cheque was dishonored for the reason "funds insufficient". In spite of issuance of legal notice dated 12.10.2020, accused has failed to repay the loan amount and thereby the accused has committed the offense punishable under Sec.138 of N.I. Act, 1881?

2) What Order?

7. My findings on the above points are as under;

- Point No.1 : In Affirmative,
- Point No.2 : As per final order,

for the following.,

#### REASONS

8. Point No.1: The complainant- Mr.Syed Wajid in support of his case has examined himself as CW.1. In his chief-examination he has reiterated the averments of the complaint. Further has produced original cheque bearing No.726973 dtd.22.06.2020 for Rs.6,05,000/-

drawn at State Bank of India, Shivajinagar Branch, Bengaluru at Ex.P1. Ex.P2 is the Bank endorsement dtd.21.09.2020 showing dishonor of the said cheque for the reason "funds insufficient". Ex.P3 is the Legal notice dtd.12.10.2020 demanding the accused to pay the cheque amount within 15 days from the date of its receipt. Ex.P4 & P5 are the two postal receipts showing dispatch of the said legal notice to the two addresses of the accused on 12.10.2020. Ex.P6 is the postal acknowledgment showing service of legal notice to the accused on 13.10.2020. Ex.P7 is the postal cover sent to Benson Town address of the accused which has been returned unserved with postal shara as "addressee left". Ex.P8 is the bank passbook of A/c. No.90010100003980 standing in the name of Fathima Begum stated to be wife of the complainant, wherein the entry dtd.28.04.2016 and 24.06.2016 shows transfer of Rs.3,00,034/- and Rs.2,00,034/- in the name of accused Syed Kabir through RTGS. Ex.P9 is the Memorandum of Understanding dtd.06.12.2019 wherein the accused - Syed Kabir being the first party and the complainant - Mr.Syed Wajid being the second party under their signatures along with photo identities have agreed the sale transactions between them and receipt of Rs.9 lakhs is also admitted by the accused. The fact of repayment of Rs.2,95,000/- by the accused to the complainant is also mentioned. The issuance of the alleged post dated cheque bearing No.726973 dtd.22.06.2020 for Rs.6,05,000/- is also found mentioned in the said Memorandum of Agreement. Ex.P10 is the acknowledgement issued by the Shivajinagar Police in respect of registering of a non- cognizable case by the complainant against the accused in NCR No.116/2018.

9. In the cross-examination, CW.1 states that the accused was known to him through his friend Bilal and the accused by stating that he has secure documents from Salem, Pondicherry and Tamil Nadu has received money from him during the year 2016. Also states that an amount of Rs.5 lakhs has been transferred to accused through NEFT from the bank account pertaining to pass book produced at Ex.P8. Further states that the signature of the accused was taken on the Memorandum of Understanding at Ex.P9 in the office of his counsel. The suggestion that the accused was forcibly taken to advocate's office and his signature has been obtained is denied by PW.1. The suggestion that out of Rs.5 lakhs received by the accused, Rs.4,50,000/- has been repaid has been denied by PW.1. He clearly admits receipt of Rs.2,95,000/- in cash from the accused. But totally denies the suggestion that the accused has repaid Rs.4,50,000/- in installments to him. Further states that there are about less than ten cheques of the accused with him. The suggestion that signature of the accused has been obtained on Ex.P9-Memorandum of Understanding by stating that the remaining balance of Rs.50,000/- is to be paid by him. Further states that the amount of Rs.5 lakhs has been paid from the bank account of his wife under his instruction. The suggestion that the money transaction had happened between the accused and his wife has been admitted.

But states that he himself has instructed his wife for transfer of money. He has also stated that in respect of earlier cheques of the accused which were bounced, he has not initiated any legal action.

10. The complainant has also examined one Mr.Bilal Ahmed as CW.2. In his chief-examination, CW.2 states that the complainant and accused are staying in the same locality. He has mediated the alleged sale of a dilapidated structure between the complainant and accused. The accused by stating that he know the owner of the property and he has to advance amount to get original documents from the owner who is residing in Tamil Nadu has demanded money. The complainant agreed to pay advance amount. In the year 2016 complainant paid first installment of Rs.1,50,000/- to the accused near cantonment railway station in his presence. For the second time the complainant has paid Rs.2 lakhs by way of cash to the accused in his house and for the third time he has paid an amount of Rs.50,000/- by cash in a hotel near Commercial street. In all the complainant has paid Rs.4 lakhs to the accused in cash in his presence. Also has states that the complainant has paid Rs.5 lakhs by way of RTGS and in all the complainant has paid Rs.9 lakhs to the accused. Further states that during the year 2018 and 2019, the accused has repaid an amount of Rs.2,95,000/- in his presence and has promised to pay Rs.6,05,000/- within six months. Also states that in his presence, the accused has executed Memorandum of Understanding in favour of the complainant on 6.12.2019.

11. In the cross-examination, CW.2 states that there was a property with the accused. The complainant to purchase it, has paid more than Rs.9 lakhs to the accused. For the first time Rs.2 lakhs was paid at Cantonment railway station, second time an amount of Rs.1,50,000/- was paid in the house of the accused and for the third time an amount of Rs.50,000/- was paid at Commercial street. Also states that an amount of Rs.2 lakhs was transferred from the bank account situated at Cunningham Road to bank account of the accused. He has admitted the suggestion that fact of accused paying an amount of Rs.2,95,000/- to the complainant is known to him. Further states that the accused has paid smaller amounts in installments. He clearly states that he do not know anything about Memorandum of Understanding produced at Ex.P9. He has denied the suggestion that the accused has repaid all the amount and there is balance of only Rs.50,000/- to be paid to the complainant.

12. C.W.3-Ismail Shariff is the witness for the Memorandum of Understanding dtd.06.12.2019 produced at Ex.P9. In his chief-examination, he states that he has affixed his signature as witness for the said document on the request of both the complainant and accused. Further in the cross-examination, CW.3 states that he could not remember what is written in the Memorandum of Understanding at Ex.P9 as it was executed long back. For a question as to what he knows about the document at Ex.P9, CW.3 states that he has signed it as a witness. He admits the suggestion that he has signed in the office of the counsel for the complainant who is conducting this matter. Further admits that he do not know about the accused -Syed Kabir. He has signed the document on the request of the complainant. Further states that the complainant has told him that he has paid money to the accused towards purchase of a property. Since the accused has not supplied documents, he has canceled the purchase of the said property.

13. The accused even though was provided with opportunity to lead his evidence has not lead evidence nor has relied on the any of the documents on his behalf. Based on the suggestions made in the cross- examination of CW.1 to CW3 and the grounds urged in his written arguments, the defense of the accused can be deduced as follows;

- i) Cheque issued as collateral security while receiving Rs.5 lakhs from the complainant.
- ii) The signature of the accused has been obtained in Memorandum of Understanding at Ex.P9 by stating that the balance amount to be paid is only Rs.50,000/-.
- iii) The accused is in illiterate and is unable to understand the nature of the document at Ex.P9.
- iv) Money is paid through complainant's wife bank account and therefore the complaint is not maintainable.
- v) There are inconsistencies in the mode of payments stated by the complainant and therefore passing of consideration cannot be believed.
- vi) Contents of the cheque has not been written by the accused.
- vii) Notice is not served upon the accused.

Principles:

14. In respect of the proof of the fact that the cheque has been issued for discharge of legally enforceable debt, there is a presumption of law under Sec.139 of Negotiable Instruments Act, 1881 in favour of the holder of the cheque which reads as follows:

Sec.139 - Presumption in favour of holder: it shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in Section 138 for the discharge, in whole or in part, of any debt or other liability.

15. The presumption under Sec.139 of Negotiable Instruments Act is a presumption of law and not the presumption of fact. There is also a presumption U/s.118(a) of N.I Act that every negotiable instrument was made or drawn for consideration. The presumption has to be raised in all the cases once the factum of issuance of cheque and its dishonour is established. The onus of proof to rebut the presumption lies on the accused. The accused need not rebut the presumption beyond all reasonable doubt. But the accused has to place sufficient materials to convince the court that his case is more probable when it is compared with the case of the complainant. Accused may adduce direct evidence to prove that the note in question was not supported by consideration or that he had not incurred any debt or liability. He may also rely upon the averments in the complaint, statutory notice and the circumstantial evidence adduced by the complainant during the trial. Accused need not enter into the witness box to rebut the presumption.

16. In the case on hand the complainant has established the factum of issuance of cheque and its dishonour. Therefore, this court shall raise a initial presumption with respect to passing of consideration and that the accused has issued cheque towards discharging of the legally enforceable debt. After raising initial presumption it is for this court to consider whether the accused has rebutted the presumption by bringing in cogent materials on record.

Defense:

i) Cheque issued as collateral security while receiving Rs.5 lakhs from the complainant.

ii) The signature of the accused has been obtained in Memorandum of Understanding at Ex.P9 by stating that balance amount is Rs.50,000/-.

iii) The accused is in illiterate and is unable to understand the nature of the document at Ex.P9.

17. In the cross-examination of CW.1, the counsel for the accused has suggested that the accused has borrowed a sum of Rs.5 lakhs and out of it, he has repaid an amount of Rs.4,50,000/-. The said suggestion has been denied by CW.1. Further CW.1 admits the receipt of Rs.2,95,000/- in cash from the accused. The said fact is even stated in the complaint and also in the legal notice issued by the complainant. Nowhere the counsel for the accused has suggested that the alleged cheque has been received by the complainant as a security during borrowing of Rs.5 lakhs. However the said ground is urged in the written arguments filed by the accused which is an oral assertion without any materials to substantiate the same. The suggestion that, Memorandum of Understanding at Ex.P9 was got executed from the accused by stating balance as Rs.50,000/-, is denied by CW.1. CW.1 clearly states that Memorandum of Understanding was executed in the office of his counsel. CW.3 who is witness for Ex.P9 also states that the said document was executed in the office of the complainant's counsel. Nothing has been elicited in the cross-examination of Cws.1 to 3 to show that Ex.P9 was got executed by stating the balance as Rs.50,000/-. CW.3 being witness to memorandum of understanding has spoken in respect of execution Ex.P9 and also has admitted his signature as a witness to the said document. The accused has not disputed the execution of Memorandum of Understanding at Ex.P9. But contends that the accused being illiterate was made to sign the document by stating balance as Rs.50,000/-.

18. On perusal of Memorandum of Understanding at Ex.P9 dtd.06.12.2019, the entire case of the complainant is found mentioned by stating that the accused has received Rs.9 lakhs towards sale site/house property situated at Shivajinagar from the complainant during March 2016 assuring to complete the sale transaction within three months, but has failed to keep up his promise and therefore has agreed to return the money without interest. Also it is mentioned that an amount of Rs.2,95,000/- has been paid by cash by the accused to the complainant and for the remaining amount of Rs.6,05,000/-, the accused has issued a post dated cheque bearing No.726973 dtd.22.06.2020 for Rs.6,05,000/-. The said post dated cheque issued by the accused under Ex.P9 got bounced resulting in filing of this complaint. The said document at Ex.P9 is signed by both the

accused and the complainant on each and every page. The last page of the document contains photograph of both the complainant and accused along with their signatures and their thumb impression. When the accused has not denied his signature in the document at Ex.P9, the assertions made in the cross-examination and written arguments that the signature of the accused have been obtained by stating the balance as only Rs.50,000/- has remained mere oral assertions without any substantiation. Even though it is contended that the accused is illiterate and could not understand Kannada & English, the accused has not entered into witness box and subjected himself for cross-examination to ascertain whether he is able to understand both the Kannada & English languages and also to elicit the facts in respect of execution of Memorandum of Understanding at Ex.P9. The Memorandum of Understanding at Ex.P9 clearly show that the accused has received a sum of Rs.9 lakhs as an advance and towards repayment of the same has issued the alleged post dated cheque. Therefore, the contention of the accused that he has issued the alleged cheque as a security while receiving amount of Rs.5 lakhs has been misused by the complainant and also the signature of the accused at Ex.P9 has been obtained in false pretext holds no water.

Defense - Money paid through complainant's wife bank account and therefore the complaint is not maintainable.

19. The complainant by producing the bank pass book of S.B A/c. No.90010100003980 has shown that an amount of Rs.3,00,034/- on 28.04.2016 and an amount of Rs.2,00,034/- on 24.06.2016 have been transferred to accused through RTGS and said transfer of money has not been disputed by the accused. In the cross-examination of CW.1, it is admitted that the said bank account belongs to complainant's wife and money was transferred from complainant's wife bank account. But when it was suggested that the transaction was with complainant's wife and the complainant, CW.1 clearly states that he has instructed his wife to transfer the money. Even though it is stated that the transaction was with the complainant's wife, nothing has been brought on record to show what was the transaction between the accused and wife of the complainant. When the sale transaction with the complainant has been clearly mentioned in the Memorandum of Understanding at Ex.P9 signed by the accused, all other contentions that the transaction was with the complainant's wife and therefore complaint cannot be maintained finds no substantiation. When the accused has entered into Memorandum of Understanding at Ex.P9, merely because, money was paid through complainant's wife bank account, privity of transaction between the complainant and the accused cannot be doubted,. Therefore, the said contention of the accused has holds no water.

Defense - There are inconsistencies in the mode of payments stated by the complainant and therefore passing of consideration cannot be believed.

20. In the legal notice and Memorandum of Understanding at Ex.P9, the mode of payment of Rs.9 lakhs is mentioned to be by way of cash. In the cross- examination, CW.1 states that he has paid Rs.6,05,000/- through bank transaction. In his further cross-examination, CW.1 states that he has paid Rs.4 lakhs through cash. In the complaint, it is stated that an amount of Rs.5 lakhs is transferred through RTGS. Therefore there are total inconsistencies in the mode of transfer payment of money to the accused which reflects dishonest intention on the part of the complainant and therefore passing of consideration is to be disbelieved. No doubt, there are such inconsistencies



in the complaint, pleadings, notice and evidence of CW.1. However when the accused has entered into Memorandum of Understanding admitting receipt of Rs.9 lakhs and also has admitted the balance liability to the tune of cheque amount of Rs.6,05,000/-, the inconsistencies made out will not go to the root of the case to disbelieve the entire case of the complainant. Mere inconsistencies and discrepancies will not effect the documentary evidence available before the court. Therefore, the contention of the accused that inconsistencies in the mode of payment will take away the case of the complainant has no force.

Defense - Contents of the cheque has not been written by the accused.

21. The counsel for accused in his written statement contends that the accused being an illiterate has not written the contents of the cheque. The complainant had entered the amount arbitrarily and is claiming Rs.6,05,000/-. There is no such suggestions made in the cross-examination of CW.1 by the accused counsel. However to adjudicate whether a blank cheque issued attracts presumption U/s.139 of N.I. Act, I would like to rely upon the decision of Hon'ble Supreme Court in *Bir Singh vs Mukesh Kumar* - (2019) 4 SCC 197, the Hon'ble Supreme Court at Para 36 has held as follows;

Para 36. Even a blank cheque leaf, voluntarily signed and handed over by the accused, which is towards some payment, would attract presumption under Section 139 of the Negotiable Instruments Act, in the absence of any cogent evidence to show that the cheque was not issued in discharge of a debt.

By relying upon the above precedent, even a blank cheque issued without filling the contents attracts presumption U/s.139 of N.I. Act. Therefore, the said contention of the accused holds no water.

Defense - Notice is not served upon the accused.

22. In the cross-examination of CW.1, the counsel for the accused has suggested that the notice sent by the complainant has not been served on the accused. The complainant has produced the postal acknowledgment at Ex.P6 showing service of notice to the accused on 13.10.2020. Nothing is brought before the court to disbelieve the said document. Therefore, the contention of the accused that he was not served with notice holds no water.

23. In *K. Subramani Vs K. Damodara Naidu* supra relied upon by the counsel for the accused, the Hon'ble Supreme Court has held that "legally recoverable debt not proved as complainant could not prove source of income from which alleged loan was made to the accused and therefore presumption in favour of holder of cheque stood rebutted". But in the case on hand, the complainant has clearly shown passing of consideration and therefore the said decision is not helpful for the contentions of the accused.

24. In *Vishal's* case cited supra, relied by the accused the Hon'ble High Court at para 23 has held as follows;

Para 23. The sum and substance of these judgments of the Hon'ble Apex Court is that there is a presumption under Section 139 of the N.I. Act which includes a presumption of existing legally enforceable debt or liability. However, such a presumption is rebuttable in nature and once the presumption is rebutted by the accused, the onus shifts on the complainant to prove his case. In the case of Basalingappa vs. Mudibasappa, it is held that though the signature has been admitted, a presumption shall be raised under Section 139 of the N.I. Act that the cheque was issued in discharge of a legal debt or liability. What has to be seen is if the said presumption is rebutted by way of a probable defence raised by the accused.

In the case on hand, the accused has failed to bring in any cogent materials to rebut the presumption and therefore, the decision relied upon by the accused is not helpful for his defense.

Conclusion:

25. Under all the circumstances, the accused has failed to probabalize his contention that he has issued cheque while receiving Rs.5 lakhs as a security and thereafter he has repaid an amount of Rs.4,50,000/-. The said contentions have remained mere oral assertion without any proof. Nothing has been brought before the court to rebut passing of the consideration. More so, when the consideration is admitted to be received in the Memorandum of Understanding at Ex.P9, which is signed by the accused. The accused has also failed to show that he has not been served with the notice issued U/s.138 of N.I. Act.

26. On the contrary, the complainant by producing the Memorandum of Understanding at Ex.P9 and by examining the witness (CW.3) to the said document in proof of execution of the document has clearly shown that the alleged cheque at Ex.P1 was issued by the accused for a sum of Rs.6,05,000/- and the same has been dishonored for the reason "funds insufficient". Thereafter, legal notice has been issued by the complainant on 12.10.2020. The same is served by the accused on 13.10.2020. The present complaint is filed on 18.11.2020 well within the period of limitation. There is nothing on record to rebut the presumption U/s.118 and 139 of N.I. Act available in favour of the complainant. Under the circumstances, the accused is found guilty for the offense punishable U/s.138 of N.I. Act. Accordingly, I hold Point No.1 in Affirmative.

27. Point No.2: The punishment prescribed for the offense U/s.138 of Negotiable Instruments Act is imprisonment for a period which may extend to two years or with fine. Considering the facts and circumstances of this case, nature, year of the transaction, nature of the instrument involved, cost of litigation and the rate of interest proposed by Hon'ble Supreme Court in 2012 (1) SCC 260 (R.Vijayan Vs Baby), this court is of the considered view that it is just and desirable to impose fine of Rs.8,15,000/- and out of the said amount, it seems to be proper to award a sum of Rs.8,10,000/- as compensation to the complainant as provided U/s.357(1) (b) of Cr.PC and the remaining sum of Rs.5,000/- shall go to the State. In view of the discussions made while answering Point No.1, I proceed to pass the following., ORDER In exercise of power vested under section 255(2) of Cr.P.C., I hereby convict the accused for the offense punishable under Sec.138 of Negotiable Instruments Act, 1881.

The accused is sentenced to pay fine of Rs.8,15,000/- (Eight Lakhs Fifteen Thousand only) for the offense punishable U/s.138 of Negotiable Instruments Act, 1881. In default of payment of fine, the accused shall under go simple imprisonment for a period of six months.

In exercise of powers vested under section 357(1)(b) of Cr.P.C., out of fine amount a sum of Rs.8,10,000/- (Eight Lakhs Ten Thousand only) is ordered to be paid to the complainant as compensation and the remaining Rs.5,000/-

(Five Thousand only) shall go to the State.

The bail bond of the accused stands canceled. The cash security deposited by the accused is ordered to be continued till expiry of the appeal period.

Free copy of the judgment shall be supplied to the accused forthwith.

(Dictated to the stenographer, transcribed thereof, computerized and print out taken by him is verified, corrected and then pronounced by me in open court on this the 17th day of February, 2023) ONKARMURTHY K M KM Date: 2023.02.17 16:28:29 +0530 (OONKAR MURTHY K.M) XIV ADDL. C.M.M., BENGALURU ANNEXURE List of witnesses examined by complainant:

|      |   |                     |
|------|---|---------------------|
| CW.1 | : | Sri. Syed Wajid     |
| CW.2 | : | Sri. Bilal Ahmed    |
| CW.3 | : | Sri. Ismail Shariff |

List of Documents marked by complainant:

|            |   |                               |
|------------|---|-------------------------------|
| Ex.P1      | : | Cheque                        |
| Ex.P1(a)   | : | Signature of the accused      |
| Ex.P2      | : | Bank endorsement              |
| Ex.P3      | : | Legal Notice                  |
| Ex.P4 & P5 | : | Postal receipts               |
| Ex.P6      | : | Postal acknowledgement        |
| Ex.P7      | : | Postal cover                  |
| Ex.P8      | : | UCO Bank passbook             |
| Ex.P9      | : | Memorandum of Understanding   |
| Ex.P10     | : | Acknowledgement in NCR.116/18 |

List of Witnesses examined by defence:

NIL List of Documents marked by defence:

NIL

Digitally signed by  
ONKARMURTHY

ONKARMURTHY K M  
KM

Date: 2023.02.17

Hkp Road Cross vs Sri. Syed Kabir on 17 February, 2023

16:28:14 +0530

(OONKAR MURTHY K.M)  
XIV ADDL. C.M.M.,  
BENGALURU