

Sri. Bheemappa vs Sri. Manjunath on 20 January, 2020

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C.C.No.1639/2014 J

IN THE COURT OF THE XVI ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, BENGALURU CITY

Dated:- This the 20th day of January, 2020

Present: Sri.S.B.HANDRAL, B.Sc., L.L.B(SPL).,
XVI Addl.C.M.M., Bengaluru City.

JUDGMENT U/S 355 OF Cr.P.C.,

Case No. : C.C.No.1639/2014
Complainant : Sri. Bheemappa,
S/o. Thimappaiah,
Age 64 years,
Residing at No.16/2,
East Anjaneya Temple Road,
Bengaluru - 560 004.
(Rep. by Sri Nagaraja Kumble.,
Adv.,)

- Vs -

Accused : Sri. Manjunath,
S/o. Balakrishnarao,
Age 40 years,
Residing at No.653, 9th Main,
3rd Block H.S.R Layout (MVR),
Bengaluru -560 043.

(Rep. by Smt. Kanchan.S Adv.,)

Case instituted : 29.8.2013
Offence complained : U/s 138 of N.I Act
of

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C.C.No.1639/2014 J

Plea of Accused : Plead not guilty
Final Order : Accused is acquitted
Date of order : 20.1.2020

JUDGMENT

The Complainant has filed this complaint against the Accused for the offence punishable u/Sec.138 of the Negotiable Instruments Act.

2. Briefly stated the case of the Complainant is that, the Accused and Sri.C.Venkatachalapathi, S/o. Chinnappa and his son by name Sri.A.B.Narendra had entered into a sale agreement dated: 19.7.2011 related to the property at Boyalahalli Village, Jaala Hobli, Bengaluru West Taluk bearing Sy.No.60/3, for 12 sites and the Accused was the assigner to the Venkatachalapathi's property. After the discussion held between the Accused and his son, his son has made the advance payment of Rs.50 Lakhs to the Accused and after receipt of the said advance amount as a sale consideration of revenue residential site the Accused was not willing to get the original sale deed done, as there were many disputes on the said 12 sites and the market value for the said property had doubled, however, the Accused had agreed with him and his son along with the advance payment of Rs.50 Lakhs would additionally paid an extra amount of Rs.46 Lakhs in total amount of Rs.96 Lakhs and confirmed that, he would not be able to get the site registered, hence he and his son believed the words of the Accused and agreed to take payment in the form of Cheque as stated by the Accused, accordingly the Accused has issued a cheque bearing No. 279451 date: 15.6.2013 for sum of Rs.64 Lakhs and cheque bearing No. 279499 dated: 29.6.2013 for Rs.32 Lakhs both are drawn on the Punjab National Bank Ltd, Rajajinagar Branch, in his name and promised that, the said cheques would be honoured. Thereafter having believed on the words of the Accused he presented the said cheques through his banker i.e. the Karnataka Bank Ltd., branch, No.052, Basavanagudi branch, Bengaluru but the cheque for Rs.64 Lakhs was returned with an endorsement of "Insufficient Funds" and another cheque for Rs.32 Lakhs to returned with an endorsement of "Payment Stopped by Drawer" on 3.7.2013, thereafter he tried to contact the Accused personally and settle the matter but the Accused has not properly responded, hence on 31.7.2013 he got issued legal notice to the Accused through RPAD and the said notice was not served on the Accused mentioning Accused does not reside in the mentioned address and returned on 5.8.2013, the Accused had intentionally avoided the notice getting served. Hence, the complainant has filed this present complainant against the Accused for the offence punishable U/s.138 of Negotiable Instruments Act.

3. Before issuing process against the accused, the Complainant has filed his affidavit-in-lieu of his sworn statement, in which, he has reiterated the averments of the complaint and produced original documents.

4. Prima-facie case has been made out against the accused and summons was issued against the accused in turn he has appeared before the court and got enlarged on bail and the substance of the accusation has been read over to him, to which he pleaded not guilty and claims to be tried.

5. The complainant himself examined as PW.1 and he has filed his affidavit, in which he has reiterated the complaint averments. In support of his oral evidence, P.W.1 has relied upon the documentary evidence as per Ex.P.1 to P.25 i.e, two Original Cheques dated:-15.6.2013 and 29.6.2013 as per Ex.P.1 and Ex.P.2 respectively, the signatures on the said cheque identified by P.W.1 as those of the accused as per Ex.P.1(a) and P.2(a) respectively, the Bank Memos as per Ex.P.3 and P.4 respectively, the returned notice as per Ex.P.5, the Postal cover as per Ex.P.6, postal Receipt as per Ex.P.7, postal acknowledgement as per Ex.P.8, Bank Statement as per Ex.P.9, original

document of Selling and Purchase contract dated: 4.2.2011 as per Ex.P.10 and signatures of the Accused are as per Ex.P.10(a) to 10(e), signatures of the PW.2 as per Ex.P.10(f) to P.(i) and signatures of the DW.2 as per Ex.P.10(j), signature of the DW.3 as per Ex.P.10(k), letter issued by the Accused dated: 27.1.2011 as per Ex.P.11, and signature of the Accused as per Ex.P.11(a), Original Sale of Agreement deed cancellation dated: 17.9.2011 executed between the Accused and Sri.Venkatachalapathi as per Ex.P.12, and signatures of the Accused is as per Ex.P.12(a) to P.12(e), signature of the PW.2 as per 12(f), original Sale Agreement dated: 17.9.2011 as per Ex.P.13. The Accused has also examined his son by name Sri.A.B.Narendra as PW.2 and he has produced the copies of the Statement of Accounts pertaining to his Bank account of Bank of Maharashtra and Grain Merchant Co-operative Bank Ltd., are as per Ex.P.14 and P.15, certified copy of the Agreement of Sale dated: 2.9.2011 as per Ex.P.16, certified copy of the Agreement cancellation Deed dated: 17.9.2011 as per Ex.P.17, and certified copy of the Sale Agreement dated: 17.9.2011 as per Ex.P.18, original cheques as per Ex.P.19 to P.23 respectively and signatures of the Accused as per Ex.P.19(a) to P.23(a) respectively (Marked through DW.1), Partnership Deed as per Ex.P.24 (Marked through DW.2), signatures of the witness as per Ex.D.24(a) (Marked through DW.2), and Rental Agreement Deed as per Ex.P.25, signature of the witnesses and DW.3 as per Ex.P.25(a) and P.25(b). The Accused has cross examined the PW.1 and PW.2 and thereafter the complainant has closed his side.

6. Thereafter, the statement of the accused as required under Sec.313 of the Cr.P.C. has been recorded. He has denied the incriminating evidence appearing against him and has chosen to lead his rebuttal evidence.

7. The Accused himself examined as DW.1 and he has filed his affidavit in lieu of his examinations-in-chief and during his evidence he has produced copies of his Statement of Accounts pertaining to Punjab National Bank Account for the period from April 2012 to March 2013 and pertaining to AN Expert Account bearing No. 408002100006751 in Punjab national Bank for the period from April 2012 to March 2013 are as per Ex.D.1 and D.2 respectively, copy of the Statement of Accounts pertaining to AN Export, Punjab National Bank Account bearing No. 4080008700000669 for the period from April 2013 to March 2014, Statement of Account pertaining to the account of Angada Soft Ware Venture Private Ltd., for the period of 29.6.2012 to 30.6.2012 as per Ex.D.3 and D.4 respectively, Vat -100 certificate for the month of January 2012 , Vat-100 certificate for the month of February 2012 as per Ex.D.5 and D.6 respectively, I.T. Returns along with profit and loss and schedule documents for the year 2010-11, 2012-13, 2013-14, are as per Ex.D.7 to D.9 respectively, Form No.6 and 11 as per Ex.D.10, Transit form weigh bill as per Ex.D.11, Original Central Sale Tax for the month of January 2012 as per Ex.D.12, Invoice Bill dated: 19.5.2012 as per Ex.D.13, copy of the Statement of Accounts pertaining to AN Export Punjab National Bank Account bearing No. 4080002100006751 for the period from 22.1.2011 to March 2014 as per Ex.D.14, copy of the Statement of Accounts pertaining to AN Expert Punjab National Bank Account bearing No. 4080008700000669 for the period from 31.10.2011 to 22.11.2011 as per Ex.D.15, computer downloaded copy of the LLP Master Data as per Ex.D.16, 3 invoice and 3 e-Sugam Form as per Ex.D.17 to D.22, Down loaded computer copy of Central Sale Tax Registration Form along with certificate filed U/s.65(b) of Indian Evidence Act as per Ex.D.23 and D.24 respectively.

8. The Accused has also examined two witnesses by name Sri. Anantarama and Sri. Hareesh Lingegowda are DW.2 and DW.3 and closed his side.

9. Heard the arguments of both learned counsels for the complainant and the Accused and perused the written argument and decisions submitted by the learned counsel for the complainant and Accused and materials on record.

10. On the basis of complaint, evidence of complainant and documents and having heard the arguments of both learned counsels for the complainant and the accused, the following points that arise for consideration are:-

1. Whether the complainant proves that the accused has issued two cheques i.e 1) cheque for Rs.64,00,000/= bearing No.279451 dated:- 15.6.2013, 2) Cheque for Rs.32,00,000/= bearing No. 279499 dated: 29.6.2013, both cheques were drawn on Punjab National Bank, Rajaji Nagar, Bengaluru. to discharge legally recoverable debt to the complainant and when the complainant has presented a cheque for encashment through his banker but the said cheques have been dishonoured for the reasons "Funds Insufficient" and Payment stopped by Drawer" on 3.7.2013 respectively and the complainant issued legal notice to the accused on 30.7.2013 and in spite of it the accused has not paid the cheques amount within prescribed period there by the accused has committed an offence U/s.138 of the Negotiable instruments Act?

2. What Order?

11. The above points are answered as under:

Point No.1: In the Negative;

Point No.2: As per final order for the following:

REASONS

12. Point No.1: Before appreciation of the facts and oral and documentary evidence of the present case, it is relevant to mention that under criminal jurisprudence prosecution is required to establish guilt of the Accused beyond all reasonable doubts however, a proceedings U/s.138 of N.I.Act is quasi criminal in nature. In these proceedings proof beyond all reasonable doubt is subject to presumptions as envisaged U/s.118, 139 and 136 of N.I.Act. An essential ingredient of Sec. 138 of N.I.Act is that, whether a person issues cheque to be encashed and the cheque so issued is towards payment of debt or liability and if it is returned as unpaid for want of funds, then the person issuing such cheque shall be deemed to have been committed an offence. The offence U/s.138 of N.I. Act pre-supposes three conditions for prosecution of an offence which are as under:

1. Cheque shall be presented for payment within specified time i.e., from the date of issue or before expiry of its validity.
2. The holder shall issue a notice demanding payment in writing to the drawer within one month from the date of receipt of information of the bounced cheque and
3. The drawer inspite of demand notice fails to make payment within 15 days from the date of receipt of such notice.

If the above said three conditions are satisfied by holder in due course gets cause action to launch prosecution against the drawer of the bounced cheque and as per Sec.142(b) of the N.I. Act, the complaint has to be filed within one month from the date on which cause of action arise to file complaint.

13. It is also one of the essential ingredients of Sec. 138 of N.I.Act that, a cheque in question must have been issued towards legally recoverable debt or liability. Sec. 118 and 139 of N.I.Act envisages certain presumptions i.e.,U/s.118 a presumption shall be raised regarding 'consideration' 'date' 'transfer' 'endorsement' and holder in course of Negotiable Instrument. Even Sec.139 of the Act are rebuttable presumptions shall be raised that, the cheque in question was issued regarding discharge of a legally recoverable or enforceable debt and these presumptions are mandatory presumptions that are required to be raised in cases of negotiable instrument, but the said presumptions are not conclusive and or rebuttable one, this proportion of law has been laid down by the Hon'ble Apex Court of India and Hon'ble High Court of Karnataka in catena of decisions.

14. In the present case the complainant has examined as PW.1 by filing his affidavit evidence wherein he has reiterated the entire contents of the complaint. The complainant/PW.1 testified that, the Accused and his son and one Sri. Venkatachalapathi, S/o. Chinnappa had entered into a Sale Agreement dated: 19.7.2011 related to the property at Boyalahalli Village, Jaala Hobli, Bengaluru West Taluk in Sy.No. 60/3, in respect of 12 sites and the Accused was the assigner to Venkatachalapathi's property. The complainant further testified that, after discussion was held between the Accused and his son, his son has paid an advance payment of Rs.50 Lakhs to the Accused as a sale consideration of the revenue residential site, the Accused was not willing to get the original sale deed done as there were many disputes on the said sites and also the market value for the said property had doubled, however the Accused agreed with him and his son that, along with the advance payment of Rs.50 Lakhs would additionally pay an extra amount of Rs.46 Lakhs in total an amount of Rs.96 Lakhs and confirmed that, would not be able to get the site registered and hence he and his son agreed to take the payment by way of cheque from the Accused, accordingly the Accused has issued the cheques in question i.e Ex.P.1 for sum of Rs.64 Lakhs and Ex.P.2 for sum of Rs.32 Lakhs towards the payment of advance sale consideration along with additional extra amount. The complainant further testified that, he has presented the said cheques through his banker but the said cheques were returned "with an endorsement of "Insufficient Funds" and "Payment Stopped by Drawer" on 3.7.2013, thereafter he got issued legal notice on 31.7.2013 through RPAD but the said notice was returned back on 5.8.2013 as it was not served due to Accused not in station but the Accused intentionally avoided to get the notice.

15. In support of oral evidence the complainant/PW.1 has produced documents as per Ex.P.1 to P.25 i.e, two Original Cheques dated:-

15.6.2013 and 29.6.2013 as per Ex.P.1 and Ex.P.2 respectively, the signatures on the said cheque identified by P.W.1 as those of the accused as per Ex.P.1(a) and P.2(a) respectively, the Bank Memos as per Ex.P.3 and P.4 respectively, the returned notice as per Ex.P.5, the Postal cover as per Ex.P.6, postal Receipt as per Ex.P.7, postal acknowledgement as per Ex.P.8, Bank Statement as per Ex.P.9, original document of Selling and Purchase contract dated:

4.2.2011 as per Ex.P.10 and signatures of the Accused are as per Ex.P.10(a) to 10(e), signatures of the PW.2 as per Ex.P.10(f) to P.(i) and signatures of the DW.2 as per Ex.P.10(j), signature of the DW.3 as per Ex.P.10(k), letter issued by the Accused dated:

27.1.2011 as per Ex.P.11,	and signature of the
Accused as per Ex.P.11(a),	Original Sale of
Agreement deed cancellation	dated: 17.9.2011
executed between the	Accused and
Sri.Venkatachalapathi as	per Ex.P.12, and

signatures of the Accused is as per Ex.P.12(a) to P.12(e), signature of the PW.2 as per 12(f), original Sale Agreement dated: 17.9.2011 as per Ex.P.13.

The Accused has also examined his son by name Sri.A.B.Narendra as PW.2 and he has produced the copies of the Statement of Accounts pertaining to his Bank account of Bank of Maharashtra and Grain Merchant Co-operative Bank Ltd., are as per Ex.P.14 and P.15, certified copy of the Agreement of Sale dated: 2.9.2011 as per Ex.P.16, certified copy of the Agreement cancellation Deed dated: 17.9.2011 as per Ex.P.17, and certified copy of the Sale Agreement dated: 17.9.2011 as per Ex.P.18, original cheques as per Ex.P.19 to P.23 respectively and signatures of the Accused as per Ex.P.19(a) to P.23(a) respectively (Marked through DW.1), Partnership Deed as per Ex.P.24 (Marked through DW.2), signatures of the witness as per Ex.D.24(a) (Marked through DW.2), and Rental Agreement Deed as per Ex.P.25, signature of the witnesses and DW.3 as per Ex.P.25(a) and P.25(b). The Accused has cross examined the PW.1 and PW.2 and thereafter the complainant has closed his side.

16. The Accused in his defence has contended that, the complainant was introduced to him by one Sri.Anantarao in the year 2011 and he had taken loan from the complainant on the basis of interest, hence in view of the admission of the Accused, it can be held that, there is no dispute between the Accused and complainant in respect of their acquaintance. The Accused in his defence has categorically denied the transaction in question as claimed by the complainant in his legal notice and complaint and also denied receipt of Rs.50 Lakhs from the son of complainant as an advance payment towards sale consideration amount and agreed to pay amount of Rs.46 Lakhs along with advance payment in total Rs.96 Lakhs and also denied the issuance of the cheques in question towards payment of the said amount. The Accused has also disputed the service of legal notice caused by the complainant to him. It is the specific defence of the Accused that, he had taken a loan

of Rs.14 Lakhs from the complainant on interest basis for the business and in part has given 14 cheques for Rs. 1 Lakh each and 3 blank cheques for security basis and all the cheques have cleared from his account but the complainant in order to grab the amount from him misutilized his blank cheques. Hence, from the defence of the Accused makes it clear that, the Accused has admitted that, the cheques in question are belongs to his account, the Accused has also admitted his signatures on the cheques in disputes are those of his signatures. It is settled law that, once the issuance of the cheque infavour of holder in due course is admitted by the drawer, a presumption about the existence of legally recoverable debt U/s.139 of N.I. Act, terms in favour of holder in due course. The Hon'ble Apex Court in Rangappa Vs. Mohan case reported in 2010(11) SCC 441, has held that, "issuance of the cheque would create a presumption with respect to legally enforceable debt in favour of the payee of the cheque", however, the said presumption is rebuttable. In the present case, it has to be examined that, whether the Accused has rebutted the presumption successfully or not, by examining oral and documentary evidence adduced by the both parties.

17. On careful examination of the claim made by the complainant in his legal notice i.e., Ex.P.5 and averments of the complaint and affidavit evidence it appears that, according to the complainant he was the assigner to one Venkatachalapathi's property i.e. 12 sites in Sy.No.60/3, situated at Boyalahalli Village, Jaala Hobli, Begnaluru West Taluk, his son by name A.B. Narendra, Accused and said Venkatachalapathi had entered into a sale agreement dated: 19.7.2011 related to the above said property, in respect of the said property his son paid an amount of Rs.50 Lakhs to the Accused as an advance payment towards sale consideration amount as there were many dispute in respect of the said 12 sites and market value had doubled for which the Accused was not willing to get the original sale deed done but he agreed to repay the amount of Rs.50 Lakhs received as an advance amount towards sale consideration amount along with additional amount of Rs.46 Lakhs in total a sum of Rs.96 Lakhs to him and his son, accordingly the complainant and his son have agreed to receive the said amount by way of cheque and Accused issued the Ex.P.1 and P.2 for sum of Rs.64 Lakhs and Rs.32 Lakhs in total Rs.96 Lakhs in favour of the complainant. In order to prove the said fact i.e. the complainant's son has paid an amount of Rs.50 Lakhs to the Accused as an advance payment towards sale consideration in respect of the 12 sites, has not produced documents. On the contrary, the complainant has produced Ex. P.9 i.e. Statement of Account pertaining to his Bank account in Grain Merchants Co-operative Bank Ltd., Chamarajpet Branch, Chamarajpet which is at Ex.P.9, it is true that, in the said statement on 19.7.2011 an amount of Rs.8 Lakhs, on 20.7.2011 an amount of Rs.7 Lakhs, on 29.7.2011 an amount to Rs.11 Lakhs, on 20.8.2011 an amount of Rs.8 Lakhs, on 24.9.2011 an amount of Rs.11 Lakhs has been paid to one Manjunath by way of cash. It is relevant here to mention that, admittedly, the complainant has not paid any amount to the Accused towards sale consideration amount but as per the averments of the complaint and evidence of the complainant his son has alleged to be paid an amount of Rs.50 Lakhs to the Accused as advance payment, hence the complainant has produced Ex.P.9 for the reasons best known to him but it is nowhere connected to his claim, therefore the complainant has failed to explain for what purpose he has produced Ex.P.9 in support of his claim. But the learned counsel for the complainant during the course of cross-examination of Accused dated:

30.11.2019 has confronted the cheques to the Accused, signed by him without mentioning the payee's name but the amount has been mentioned in the said cheques

which are at Ex.P.19 to P.23 by suggesting that, whenever the Accused received the amount from the complainant, for the purpose of security he used to give the cheques, hence it goes to show that, there may be a loan transaction between the complainant and the Accused and the complainant used to collect the signed cheques of the Accused towards security of the loan given by him, therefore Ex.P.9 and P.19 to P.23 are nowhere connected to the present case.

18. The complainant has produced original registered Sale Agreement cancellation deed date:

17.9.2011 executed by the Accused in favour of one Sri.Venkatachalapathi which is at Ex.P.12 and original registered Sale agreement dated: 17.9.2011 executed by Sri.C.Venkatachalapathi in favour of the son of the complainant i.e. Sri.Narendra A.B. which is at Ex.P.13. According to the complainant, the Accused had received an amount of Rs.50 Lakhs from his son as advance payment towards sale consideration in respect of 12 sites in Sy.No.60/3, at Boyalahalli, Jaala Hobli, Bengaluru West Taluk, the Accused and C.Venkataachalapathy and son of the complainant have entered into the said agreement but after receiving the said amount, the Accused was not willing to get the original sale deed done as there were many disputes in respect of the said sites and also increasing of market value i.e. doubled the value of the property, the Accused agreed to repay the advance amount of Rs.50 Lakhs along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs and the Accused confirmed that, would not be able to get the site registered, accordingly the complainant and his son have agreed to receive the amount of Rs.96 Lakhs by way of cheques accordingly the Accused has issued the said amount by way of cheques as per Ex.P.1 and P.2.

But on perusal of Ex.P.13 i.e. the original sale agreement dated: 17.9.2011 executed by the vendor i.e. Sri.C.Venkatachalapathy in favour of the son of the complainant herein in respect of site bearing No.1 to 7, 10, 49 and 77 in Sy.No.60/3, situated at Boyalahalli Village, Jaala Hobli, Bengaluru North totally measuring 12000/= sq.ft for sale consideration of Rs.50 lakhs, out of the said sale consideration amount an amount of Rs.45 Lakhs paid as an advance to the vendor i.e. an amount of Rs. 22,50,000/= paid by way of cheque bearing No. 20094 dated : 12.9.2011 and Rs.22,50,000/= paid by way of cash and remaining balance of Rs.5 Lakhs agreed to receive within three months from the date of the said agreement. On careful perusal of the recitals of Ex.P.12 i.e. Sale agreement Cancellation Deed wherein it is mentioned that, the sale agreement deed found to be not in order, very fact that, both parties not interested in the said agreement and to avoid complications in future have decided and agreed to execute the deed of cancellation agreement as the conveyance has neither had any effect nor of any use of benefit to the vendor. It is also seen that, the vendor i.e. Sri.C.Venkatachalapathi had agreed to return the full sale consideration advance amount of Rs.50 Lakhs received from the Accused herein i.e. purchaser by way of cash accordingly the deed has come to be registered. On perusal of the Ex.P.16 i.e. the certified copy of the registered Sale Agreement executed by the Sri.C.Venkatachalapathi in favour of the Accused on 2.9.2011. it appears from the recitals of Ex.P.16 that, Sri.C.Venkatachalapathi has executed a sale agreement in favour of the Accused herein in respect of sites bearing No.1 to 7,10, 46, 48, 49 and 77 in Sy.No.60/3, situated at

Boyalahalli Village, Jaala Hobli, Bengaluru North measuring 14400/= sq.ft for sale consideration, out of the said sale consideration amount, the Accused has paid an amount of Rs.2,50,000/= paid by way of cheque bearing No. 280093 dated: 2.9.2011 and Rs. 22,50,000/= paid by way of cheque bearing No. 280094 dated:12.9.2011 and a sum of Rs.25,00,000/= paid by way of cash.

19. On careful perusal of the Ex.P.13, P.12 and P.16 makes it clear that, earlier, i.e. as per Ex.P.16 the Accused herein has purchased the sites i.e. sites No.1 to 7, 10, 46, 48, 49 and 77 in Sy.No.60/3, situated at Boyalahalli Village, Jaala Hobli, Bengaluru North Taluk, totally measuring 14400 sq ft of land for sum of Rs.50 Lakhs from one Sri.C.Venkatachalapathi and out of the said sale consideration amount, the Accused herein has paid entire sale consideration of Rs.50 Lakhs to the vendor and the vendor has executed the sale agreement by acknowledging the receipt of said amount and agreed to complete the transaction. It is also seen from Ex.P.12 that, due to the reasons mentioned therein, the Accused and the vendor i.e. Sri.C.Venkatachalapathi have decided and agreed to execute the Deed of cancellation Agreement to avoid complications in future and the vendor has agreed to return the full sale consideration advance amount of Rs.50 Lakhs and the Accused has received the said amount of Rs.50 Lakhs from the vendor accordingly they had executed deed of cancellation agreement as per Ex.P.12. Hence, on perusal of Ex.P.16 and P.12 it can be held that, the Accused has entered into agreement of sale for purchase of the sites under Ex.P.16 from its vendor and thereafter same has been cancelled as per Ex.P.12. It is also seen from Ex.P.13 that, on the date of deed of cancellation of agreement for sale i.e. Ex.P.12, the son of the complainant has purchased the sites which were purchased by the Accused under Ex.P.16 for sum of Rs.50 Lakhs and out of the said sale consideration amount an amount of Rs.45 Lakhs has been paid by the son of the complainant i.e. PW.2 in favour of the vendor i.e. Sri.C.Venkatachalapathi.

20. The learned counsel for the complainant in the written argument specifically argued that, the admitted facts of the Accused in page No.2, para No.4 page No.3, para No.5, and page No.3 and 4 in para No.6 of his cross-examination dated:

19.11.2019 clearly establishes that he received an amount of Rs.50 Lakhs from complainant and his son and promised to get an agreement for sale executed by one Mr.Venkatachalapathi in their favour but the Accused did not get an agreement for sale executed infavour of the complainant and his son he got the agreement of sale as per Ex.p.16 in his favour in respect of the residential sites by paying Rs.50 Lakhs as advance amount , thereafter knowing the said fact the complainant objected and demanded to return the money, then Accused cancelled the agreement for sale i.e. Ex.P.16 through registered cancellation deed as per Ex.P.17 and on the same day made a new agreement for sale, executed between the vendor C.Venkatachalapathi and son of the complainant as per Ex.P.18 registered in the same sub registrar office and in the said agreemtn for sale the amount of Rs.22,50,000/= vide cheque bearing No. 280094 dated: 12.9.2011 drawn on Canara Bank, Bengaluru paid by the Accused as advance in his agreement was shown as the advance amount paid by the son of the complainant to Mr. Venkatachalapathi and another Rs.22,50,000/= was shown as cash paid totaling Rs.45 Lakhs under the agreement for sale as per Ex.P.18, thus the transactions clearly establishes that, the Accused admitted that, the consideration

paid under Ex.P.16 is the same one shown in Ex.P.18 and also admitted time break between the registration of Ex.P.17 and Ex.P.18 is just 18 minutes i.e. 3.04 pm. and 3.22 p.m, i.e the registration numbers of two documents both registered in the same office of the registrar and also admitted that, he has signed as a witness to the Ex.p.18 hence the admitted facts of the Accused enriches the allegations made by the complainant against the Accused.

21. On careful perusal of the arguments canvassed by the learned counsel for the complainant it is relevant here to mention that, either the complainant or his son have not produced any documents to show that, they have paid an amount of Rs.50 Lakhs to the Accused towards purchase of the revenue sites as mentioned in Ex.P.16 and P.18. The complainant in his cross-examination has admitted that, he has paid an amount of Rs.50 Lakhs to the Accused as an advance amount by way of cheques and also by way of cash and he has not stated how much amount has been paid through cheques and how much of the amount paid by way of cash. The son of the complainant i.e .PW.2 in his cross-examination has admitted that, out of Rs.50 Lakhs paid by him towards advance sale consideration amount to the Accused, he has paid Rs.25 Lakhs by way of cheque and remaining Rs.25 Lakhs by way of cash. In addition to that, the son of the complainant i.e PW.2 has stated that, he has paid the said amount up to one month to the Accused. It is also interesting to mention here that, the learned counsel for the complainant during the course of cross-examination of the Accused at page No.14 dated: 3.2.2019 suggested that, the complainant has paid an amount of Rs.50 Lakhs by way of cheque. Hence the admissions of the complainant and his son i.e PW.2 and suggestions made to the Accused on behalf of the complainant during his cross-examination makes it clear that, the complainant is not confident as to the alleged mode of payment of Rs.50 Lakhs made to the Accused i.e., either by way of cheques or by way of cash. If really the complainant or his son have paid the alleged amount of Rs.50 Lakhs to the Accused as stated by them, definitely they would have produced the documentary evidence to prove the said fact as the amount which is alleged to have been paid by them to the Accused i.e. Rs.50 Lakhs is not a small amount i.e huge amount , in such circumstances in view of non production of the documentary proof though they have admitted that, the amount of Rs.50 Lakhs paid by way of cheques and also cash , an adverse inference can be drawn against the complainant that, the complainant has miserably failed to prove that, he or his son has paid the alleged advance amount of Rs.50 Lakhs to the Accused. It is true that, the complainant and his son have produced their bank statements but the complainant and his son have contended that, the Accused has received an amount of Rs.32 Lakhs towards supply of granite blocks, in such circumstances though they have produced their bank statements they have miserably failed to prove whether the said amounts paid by them either in respect of alleged advance sale consideration amount or in respect alleged granite business.

22. In addition to the above, it is also relevant here to mention that, the son of the complainant i.e. PW.2 in his cross-examination at page No.3, 4, and 5 has specifically admitted that, which reads as under:

At page No.3 and 4 in para No.6 :

agreement for sale executed between them as per Ex.P.16 dated: 2.9.2011 in respect of the sites for the reasons that, the sale agreement deed found to be not in order and both the parties not interested in the said sale agreement and to avoid complication in future and agreed to execute the deed of cancellation agreement and also appears that, the vendor has return the full sale consideration amount of Rs.50 Lakhs received from the Accused. If really the complainant the Accused had cancelled agreement of sale dated: 2.9.2011 when the complainant objected and demanded for return of money and thereafter execution of the cancellation deed of agreement on the same day made a new agreement for sale between the son of the complainant and vendor Sri. Venkatachalapathi by showing the same sale consideration amount which was shown and received by the vendor in Ex.P.16, in such circumstances, there would have been mentioning of the said fact in the new agreement for sale executed between the son of the complainant and vendor Sri. Venkatachalapathi as per Ex.P.13 dated: 17.9.2011 but nothing has been mentioned in Ex.P.13 regarding the passing of the sale consideration amount to Mr. Venkatachalapathi under Ex.P.16 is the sale consideration paid under Ex.P.13/P.18. Therefore mere registration of the Ex.

P.12/P.17 i.e. the cancellation deed of agreement of sale dated: 17.9.2017 and the agreement for sale i.e. Ex.p.13/P.18 on the same day in between just 18 minutes and affixture of the signature of the son of the complainant to the Ex.P.12/P.17 and signature of the Accused to the Ex.P.13/P.18 it cannot be held that, the Accused has admitted that, he has received an amount of Rs.50 Lakhs from the complainant and his son by assuring them about execution of the agreement of sale in the name of complainant's son, used the said amount as consideration passed to the vendor venkatachalapathi under Ex.P.16 and when the complainant and his son objected and return of the money the Accused cancelled his agreement for sale through Ex.P.12/P.17 cancellation deed dated 17.9.2019 and on the same day made executed a new agreement from Mr. Venkatachalapathi infavour of the son of the complainant as per Ex.P.13/p.18.

24. It is also relevant here to mention that, even for sake of discussions, if it is assumed that, the consideration amount passed to Mr. Venkatachalapathi under Ex.P.16 and when the complainant and his son objected and demanded for return of their money at that time the Accused cancelled his agreement for sale by way of cancellation deed on 17.9.2019 as per Ex.P.12/P.17 and on the same day, made executed a new agreement from the vendor Mr. Venkatachalapathi infavour of the son of the complainant and the consideration paid under Ex.P.16 is the same consideration shown in Ex.P.18, in such circumstances, it can be held that, the amount which is alleged to have been paid by the complainant and his son to the Accused has been returned to them and thereafter the said amount has been paid to the vendor Mr. Venkatachalapathi by way of consideration as shown in Ex.P.13/P. 18 i.e. agreement of sale executed in favour of the son of the complainant. It is admitted by the son of the complainant that, he has paid an amount of Rs.45 Lakhs as advance sale consideration amount to the vendor Venkatachalapathi as shown in Ex.P.13/18, therefore when the son of the complainant himself admitted that, he has paid the advance amount of Rs.45 Lakhs to the vendor, in such circumstances, it cannot be held that, even after paying the advance amount sale consideration by the son of the complainant, then the question of the Accused has to pay the alleged advance amount of Rs.50 Lakhs paid to him by the complainant and his son does not arise at all, on

this count also the claim made by the complainant against the Accused cannot be acceptable one.

25. It is important to note here that, as per the recitals of Ex.P.13/p.18 i.e the agreement for sale dated: 17.9.2011 executed by Sri. Venkatachalapathi in favour of the son of the complainant by agreeing to sell the sites property totally measuring 12,000 sq.ft for sum of Rs.50 Lakhs i.e. total sale consideration amount and out of the said amount, he has received an amount of Rs.45 Lakhs from the son of the complainant and both parties are agreed to complete the transaction within three months by receiving balance amount of Rs.5 Lakhs. It is also seen at page No. 3 in clause No.8 of Ex.P.13/P.18 that "If the vendor failed to convey the schedule sites in favour of the purchasers, the purchasers will be at liberty to specific performance of contract as per the law before the jurisdictional court", hence it goes to show that, as per clause No.8 of the Ex.P.13 it is for the son of the complainant i.e. purchaser to file suit for specific performance of contract before the jurisdictional court if the vendor fails to convey the scheduled sites in his favour, but in the present case the complainant has contended that, as there were many disputes in respect of the sites mentioned and the market value for the property had doubled in such circumstances the Accused had agreed to return advance payment of Rs.50 Lakhs along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs. Hence, the complainant one breath contending that, the sale consideration amount paid by the Accused to the vendor i.e. Mr.Venkatachalapathi under Ex.P.16 is shown as the consideration amount paid to the vendor i.e Mr. Venkatachalapathi by the son of the complainant under Ex.P.13/P.18 and another breath the complainant contending that, as there were many disputes in respect of the schedule property the Accused agreed to repay the sale consideration amount of Rs.50 lakhs to him and his son along with additional amount of Rs.46 Lakhs, hence which version of the complainant is to be true and which version is false is only known by the complainant and the two versions of the complainant cannot be acceptable one at the same time, the complainant either he has to accept the sale consideration amount paid by the Accused under Ex.P.16 to the vendor Mr.Venkatachalapathi is shown in the Ex.P.18 ie. the sale agreement executed in favour of his son or he has to claim that, the Accused has agreed to return the alleged advance amount paid by him and his son, in such circumstances also the claim made by the complainant appears to be doubtful as to whether the son of the complainant has paid alleged advance amount of Rs.50 Lakhs to the Accused.

26. It is also relevant here to mention that, when the complainant and his son themselves have admitted that, the consideration amount of Rs.50 Lakhs passed to Mr.Venkatachalapathi under Ex.P.16 when they objected and demanded to return of their amount at that time, the Accused has made a new agreement for sale executed between the vendor Mr. Venkatachalapathi and the son of the complainant as per Ex.P.18 and the consideration amount which is shown in Ex.P.18 is the same consideration amount shown under Ex.P.16, it goes to show that, as on the date of execution of the Ex.P.18 the Accused is not liable to pay any alleged amount which was paid by the complainant and his son towards purchase of sites as claimed by them, in such circumstances also as on the date of Ex.P.12/P18, the complainant cannot claim any alleged advance amount paid by his son to the Accused , as admittedly the consideration amount paid by the Accused under Ex.P.16 has been shown as a consideration amount in Ex.P.18. It is also relevant here to mention that, the complainant in order to prove the fact that, the consideration passed to Mr.Venkatachalapathi under Ex.P.16 was the consideration shown in Ex.P.18, the complainant has not produced any

documents or even has not proved the said fact by examining the vendor i.e Mr.Venkatachalapathi who had executed the Ex.P.13/P.18 infavour of his son i.e., Agreement for sale in respect of the sites, if the said vendor was examined before the court the complainant would have establish the fact that, whatever the consideration passed to him under Ex.p.16 is shown in Ex.p.18, in such circumstances also in the absence of examination of vendor in Ex.P.18 , the claim made by the complainant cannot be acceptable one.

27. In addition to the above it is not the claim of the complainant in his legal notice, complaint and in the evidence that, the Accused took an advance amount of Rs.50 Lakhs from his son towards sale consideration amount in respect of purchase of 12 sites and promised him about execution of agreement for sale in the name of his son but the Accused has used the said amount as consideration passed to Mr.Venkatachalapathi under Ex.P.16 and when knowing said fact the complainant objected and demanded the Accused for return of the money thereafter he cancelled the said agreement of sale executed in his favour and made executed a new agreement for sale from Mr.Venkatachalapathi in favour of his son as per Ex.P.13, but in the evidence of PW.2 and in the cross-examination of Accused the complainant has set up new set of facts that, the alleged amount paid by his son was used by the Accused as a consideration amount paid to the Mr.Venkatachalapathi under Ex.P.16 and after objecting by him the Accused cancelled the agreement for sale executed in his favour and made executed a new agreemtn in favour of his son, when there is no pleadings or claim made by the complainant, in such circumstances if any amount of evidence led by the complainant same cannot be acceptable one., on this count also the claim made by the complainant on the basis of Ex.P.12, P.13 and P.16 cannot be acceptable one.

28. It is also the specific claim of the complainant that, the Accused had received an amount of Rs.50 lakhs as advance sale consideration amount from his son towards the revenue sites and after receipt of the said amount he was not willing to get the original sale deed done, as there were many disputes on the mentioned sites and market value had doubled, for which the Accused agreed to return the advance payment of Rs.50 Lakhs along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs by way of cheques, accordingly the complainant and his son have agreed to receive the said amount in the form of cheques and the Accused has issued the cheques in question i.e. Ex.P.1 for Rs.64 Lakhs and Ex.P.2 for Rs.32 Lakhs. But the complainant in his cross-examination has taken different version to his claim made in the complaint by admitting that, he has paid Rs.50 Lakhs to the Accused for purchase of sites under an agreement and the said transaction was not materialized even after two years, thereafter the Accused has issued a cheque for Rs.64 Lakhs by agreeing to pay an amount of Rs.14 Lakhs interest on the advance payment of Rs.50 Lakhs paid by him , hence it goes to show that the complainant in his legal notice, complaint and evidence claimed that, the Accused agreed to pay additional amount of Rs.46 Lakhs along with the advance payment of Rs.50 Lakhs in total Rs.96 Lakhs and has issued two cheques i.e Ex.P.1 and P.2 for Rs.96 Lakhs but in his cross- examination he has admitted contrary to his own claim and stated that, Ex.P.1 was issued for Rs.64 Lakhs only towards the advance payment of Rs.50 Lakhs received by him along with Rs.14 Lakhs interest, therefore the inconsistent claim made by the complainant itself nullifies his own claim made in the complaint, therefore the very admission of the complainant itself falsify the claim that, the Accused was agreed to pay additional amount of Rs.46 Lakhs along with Rs.50 Lakhs received by him. In addition to that, the complainant in his legal notice, complaint and evidence has

only stated that, Accused has agreed to pay additionally an extra amount of Rs.46 Lakhs along with the advance amount of Rs.50 Lakhs in total Rs.96 Lakhs to him and his son as there were many disputes in respect of the sites and market value of the property had doubled but the complainant or his son have not produced any documents to show that, there were disputes with regard to the sites mentioned in the agreement of sale or the market value of the property had doubled as claimed by the complainant in his complaint, in such circumstances also a serious doubt will arise that, the Accused agreed to pay alleged additional payment of Rs.46 Lakhs along with the alleged advance payment of Rs.50 Lakhs. It is also relevant here to mention that, according to the complainant, the Accused was the assigner to the Mr.Venkatachalapathi's properties and after discussions was held between him and his son, his son has paid an amount of Rs.50 Lakhs to the Accused as advance payment of sale consideration in respect of revenue residential sites, but in order to prove the said fact as to whether the Accused was the assigner to the Mr.Venkatachalapathi's property or the Accused having any legal, valid title or any documents to execute the agreement for the sale in favour of his son, the complainant has not produced any document and even the documents which are produced by the complainant appears that, the vendor Mr.Venkatachalapathi nowhere assigned the Accused to his property or the property in question i.e., mentioned in the agreement for sale are not belongs to the Accused, in such circumstances also a doubt arises in the mind of the court as to without verification of the documents in respect of the revenue sites, how the complainant or his son has paid the huge amount of Rs.50 Lakhs to the Accused towards advance sale consideration amount, on this count also the claim made by the complainant appears to be doubtful and there are no documents produced by the complainant in that regard.

29. Therefore on careful perusal of the oral and documentary evidence produced by the complainant and his son and for the reasons stated in the above, the complainant and his son have miserably failed to prove that, the son of the complainant has paid an advance amount of Rs.50 Lakhs to the Accused towards purchase of the 12 sites of revenue as and the Accused promised to get an agreement for sale executed between the son of the complainant and vendor Mr. Venkatachalapathi.

30. The complainant has also produced one document titled as Selling and Purchase Contract dated: 4.2.2011 and Letter issued by the Accused in AN Export Letter Head to the M/s. Lion Apex Trading Pvt. Ltd., Bengaluru i.e. to the complainant which are at Ex.P.10 and P.11 respectively. The complainant in his legal notice i.e. Ex.P.5, in the complaint and in his examination-in-chief i.e. affidavit has nowhere stated about the existence of Ex.P.10 and Ex.P.11 and even in his evidence has not stated anything about the Ex.P.10 and P.11. It is relevant here to mention that, the son of the complainant i.e. Sri.A.B.Narendra i.e. PW.2 in his evidence stated that, the Accused is the proprietor of firm i.e M/s. AN Export, a dealer of granite blocks and the Accused was introduced to him and his father by one Sri. Anantaramarao in the year 2010 since they were also doing business in the same field and intending to purchase granite blocks from the Accused company, they were entered into a contract of Purchase and Sale of Granite Blocks on 4.2.2011 and subsequently did few transaction with the Accused and in the mean time the Accused had taken an amount of Rs.32 Lakhs in different intervals from them assuring to supply granite blocks but he did not supply any materials to them, but when they stopped all business transaction with the Accused and demanded to return their money at that time, the Accused issued two cheques bearing Nos. 279451 dated: 15.6.2013 for Rs.64 Lakhs i.e Ex.P.1 towards real estate business and cheque bearing No. 279499 date: 29.6.2013 for

Rs.32 Lakhs towards granite business to clear his debt and liability. Hence, it goes to show that, according to PW.2 the Accused has issued Ex.P.1 towards the real estate business and Ex.P.2 towards Granite business, it is a relevant here to mention that, the complainant either in the legal notice or in the complaint or in his evidence nowhere stated that, the Accused has issued Ex.P.1 towards real estate business and Ex.P.2 towards granite business but the complainant and his son i.e. PW.2 introduced new set of facts before the court by bifurcating the alleged transaction and for the first time restricted their claim for Rs.64 Lakhs i.e. Ex.P.1 towards real estate business and Rs.32 Lakhs towards granite business, even though it is not the case of the complainant, in such circumstances, the evidence of the PW.2 is totally contrary to the claim made by the complainant in his complaint and also in his evidence, therefore for the first time, that too the son of the complainant PW.2 has stated in his evidence that, there was an contract entered into between himself and the Accused in respect of purchase and sale of granite blocks as per Ex.P.10 and in connection with the said business the Accused had taken an amount of Rs.32 Lakhs on different intervals from them assuring to supply the granite blocks therefore the evidence set up by the PW.2 is against to the claim made by the complainant in the complaint and also in his legal notice, in such circumstances it cannot be held that, as per the say of PW.2 the Accused has issued Ex.P.2 cheque for Rs.32 Lakhs towards granite business as alleged by PW.2. It is also relevant here to mention that, when the complainant himself has not stated that, the Accused has issued Ex.p.2 for sum of Rs.32 Lakhs towards discharge the said amount received by him for supply of granite blocks, in such circumstances, the oral evidence of PW.2 and Ex.P.10 and P.11 cannot be taken into consideration.

31. It is true that, the Accused has denied the existence of Ex.P.10 contract between him and the complainant's son i.e., between M/s. AN Export and M/s. Lion Apex Trading Pvt. Ltd., and also denied his signature on Ex.P.10, but the Accused has admitted the signature of the witness i.e. one Sri.Harish which is at Ex.P.10(k) who is also examined as DW.3 on behalf of the Accused and the said witness i.e. DW.3 in his cross-examination has admitted his signature i.e. Ex.P.10(k) as that of his signature and also admitted that, the Accused is the owner of AN Export company and complainant is the owner of Lion Apex Trading Pvt. Ltd., and there was a granite business with the complainant and Accused in the year 2011. The another witness examined by Accused i.e. DW.2 has also admitted in his cross-examination that, he and complainant were doing quarry business at Chickballapura in the year 2009-10 and thereafter the complainant started independent quarry business after the year 2010 along with one Reddappa Reddy on partnership business as per the partnership deed i.e. Ex.P.24 and he was also signed as a witness to the Ex.p.10 i.e. as per Ex.P.10(j). It is a relevant here to mention that, the learned counsel for the complainant during the course of cross-examination of the Accused has also suggested the suggestions that, there was a registered agreement between the complainant's company and Accused's company in respect of granite business on 4.2.2011 as per Ex.p.10 and as per the terms of the Ex.p.10 the Accused has received an amount of Rs.14 Lakhs for supply of granite blocks and out of the said Rs.14 Lakhs the complainant has paid Rs.13 Lakhs by way of RTGS and Rs.1 Lakh by way of cash and as per the terms of the Ex.P.10 the Accused has given profit to the complainant and also repaid the said amount of Rs.14 Lakhs but the Accused has denied the said suggestions. It is also suggested that, as per Ex.P.11 contract the Accused has received Rs.14 Lakhs an advance and in pursuance of Ex.P.11, the Ex.p.10 came to be executed between the complainant's company and Accused company. It is also relevant here to mention that, the learned counsel for the complainant has specifically suggested that, Ex.p.2

cheque in question is issued by the Accused towards discharge of the amount received by him in respect of granite business but the said suggestion was denied by the Accused. Hence, the suggestions made on behalf of the complainant to the Accused in respect of Ex.P.10 makes it clear that, the complainant for the first time during the course of cross-examination of the Accused has taken a contrary to the claim made by him in his complaint and also in his evidence i.e. the complainant nowhere stated that, the Ex.p.2 was issued by the Accused towards repayment of the amount received by him in respect of granite business transaction and there was a contract between the Accused company and complainant's company as per Ex.p.10 in respect of granite business.

32. It is also relevant here to mention that, the complainant in his legal notice, complaint and evidence has specifically contended that, his son has paid an amount of Rs.50 Lakhs as advance payment towards sale consideration of the Revenue residential sites but there were many disputes on the said sites and increasing in the market value the Accused was not willing to get the original sale deed done and agreed to repay the said amount along with additional amount of Rs.40 Lakhs in total 96 Lakhs to the complainant and his son and accordingly has issued Ex.P.1 for sum of Rs.64 Lakhs and Ex.P.2 for sum of Rs.32 Lakhs i.e. total amount of Rs.96 Lakhs, hence the alleged claim made by the complainant is only in respect of the sale consideration amount alleged to have been paid by his son, but the complainant nowhere claimed that, there was a contract between the complainant's company and Accused's company in respect of granite business as per Ex.P.10 and the Accused had taken an amount of Rs.32 Lakhs in different intervals from them for supply of granite blocks but he did not supply any materials to them as agreed by him and finally they asked return of their money, accordingly the Accused has issued Ex.P.2 cheque in question for sum of Rs.32 Lakhs towards repayment of the amount received by him in respect of granite business, under such circumstances only on the basis of oral evidence of the PW.2 and suggestions made by the complainant during the course of cross-examination in contrary to the claim made by the complainant, it cannot be held that, the Accused has issued Ex.p.2 for sum of Rs.32 Lakhs towards the amount received by him in respect of supply of granites i.e. granite business as alleged by the PW.2 in his evidence and the suggestions made to the Accused during the course of cross-examination. It is true that, the complainant has produced Ex.P.10 i.e. the Registered selling and purchase contract executed between M/s. AN Exports and M/s. Lion Apex Trading Pvt. Ltd., and though the Accused has denied his signatures found at Ex.p.10(a) to P.10(i) and the witnesses to the Ex.p.10 i.e. DW.2 and DW.2 have also admitted their signatures on Ex.P.10 but it is not the case of the complainant or claim of the complainant that, the Accused has issued Ex.P.2 subject cheque for Rs.32 Lakhs towards the amount received by the Accused in respect of supply of granite blocks as per the terms and conditions of Ex.P.10, in such circumstances for the sake of discussions, if it is assumed that the Ex.p.10 is executed in between the M/s. AN Exports and M/s. Lion Apex Trading Pvt. Ltd in respect of granite business and Accused has agreed for supply of granite blocks as per terms of Ex.P.10 and Ex.P.10 is came to be executed in pursuance of Ex.P.11, it cannot be held that, the Ex.P.2 is subject cheque has been issued by the Accused towards repayment of the amount received by him for supply of granite blocks, as the complainant himself has not claimed that, Ex.P.2 is issued by the Accused towards discharge of the amount received by the Accused in respect of supply of granites from them.

33. In addition to the above, the PW.1 and Pw.2 in their cross-examination have specifically admitted that, themselves and Accused were doing granite business and they are doing granite business through their company i.e. Lion Apex Trading Pvt. Ltd., and the complainant, PW.2 and mother of the PW.2 i.e. wife of the complainant were partners of the said company and Ex.P.10 is the contract between the M/s. AN Exports and M/s. Lion Apex Trading Pvt. Ltd i.e. their company and Accused company in respect of Iron ore purchase and Sales and also supply of granite blocks business. The Accused has specifically denied the existence of Ex.P.10 and also P.11 which are alleged to be executed by him in respect of granite business. The PW.2 in his evidence has specifically stated that, the Accused has taken an amount of Rs.32 Lakhs in different intervals from them to supply granite blocks but he did not supply any materials to them as agreed by him. it is relevant here to mention that, the complainant i.e. PW.1 and his son i.e. PW.2 in their cross-examination they have categorically admitted that, they have closed their company in the month of July of this year and till closing of the said company it was not in running and there is no hindrance for them to produce the documents to show that, they had closed their company. The PW.2 in his cross-examination has also admitted that, they had not taken subject cheques either in the name of their company or in the name of Director of their company and also admitted that, they had not taken vat registration certificate and without there being vat registration certificate they are doing granite business and they are doing only business on commission basis that, they are booking the granite blocks through the telephone and in writing and requested to supply of the said granite blocks directly to the purchasers and they used to receive the commission . The PW.2 has also admitted that, at the time of booking they used to raise invoice with regard to delivery of granites and then only the granites will be supplied and same is not shown his turn-over in vat - 100 certificate pertains to his company. The PW.2 has also admitted that, he has not paid any TDS towards the commission amount received by him and since 4 to 5 years his company is already wind up and the process of winding up is in progress and now his company is completely strike off. Hence, the above admissions of the PW.2 makes it clear that, he has not maintained any documents with regard to granite business alleged to have been done with the Accused. Though the PW.2 contended that, there was a registered contract in respect of purchase and sale of granite blocks in between his company and the Accused company as per Ex.P.10, and he did transaction with the Accused and the Accused had taken amount of Rs.32 Lakhs from him for supply of granite blocks, in such circumstances the complainant or the PW.2 would have produced the documents with regard to alleged transaction between the Accused and himself in respect of supply of granite blocks. The PW.2 in support of his oral evidence statement of Bank account belongs to M/s. Lion Apex Trading Pvt. Ltd., which is at Ex.P.14 wherein it is seen that, an amount of Rs.3 Lakhs on 8.2.2011 , Rs.5 Lakhs on 14.2.2011 and Rs.5 Lakhs on 15.2.2011 have been transferred to the An Export company by way of RTGS i.e. total amount of Rs.13 Lakhs have been transferred to the Accused company but according to PW.2 the Accused has received Rs.32 Lakhs in different intervals towards supply of granite blocks but no evidence is forthcoming in Ex.P.14 to show that, an amount of Rs.32 Lakhs has been received by the Accused for supply of granite blocks. The PW.2 has also produced Ex.P.15 i.e Statement of Bank Account pertains to him wherein an amount of Rs.25 Lakhs has been paid to his father i.e. the complainant but for what purpose the said document has been produced by the PW.2 is known to him only. Hence on careful perusal of the documents produced by the PW.2 are not helpful for him to establish his contention that, the Accused has received an amount of Rs.32 Lakhs on different intervals towards supply of granite blocks subsequent to the execution of Ex.P.10 and

in order to return the amount of Rs.32 Lakhs the Accused has issued the subject cheque in question i.e. Ex.p.2 in favour of the complainant.

34. It is important to note here that, on careful perusal of the recitals of Ex.p.10 it appears that, there was an agreement between the M/s.AN Export firm i.e Accused firm and M/s. Lion Apex Trading Pvt., Ltd., i.e complainant's company in respect of selling and purchase of granite blocks in pursuance of Ex.p.11 and as per Ex.P.10 the Accused have agreed to supply the granites regularly 10 cubic meters produced at their quarry for next 25 months from 1.3.2011 to 1.3.2013 on or before 5th of each month and the buyer agreed to make full and entire payment of Rs.14 Lakhs within 30 days. It is also seen from clause 10 of the Ex.P.10 that, in case of any dispute the parties agrees to settle the disputes amicably and any dispute between seller and buyer which cannot be settled amicably, shall be referred to arbitrator under the rules of Conciliation and Arbitration of Indian Arbitration Act, the disputes shall be subject to the jurisdiction of Bengaluru city courts. Hence, as per clause 10 of Ex.P.10 makes it clear that, there is a clause provided in Ex.P.10 if any dispute arises between the complainant and Accused in respect of supply of granite blocks or relating to the granite business and if such dispute is not settled amicably, the same shall be referred to an arbitrator under the provisions of Indian Arbitration Acts. In the present case also according to the complainant and his son have contended that, the Accused has received an amount of Rs.32 Lakhs on different intervals from them assuring to supply of granite blocks but he did not supply any materials to them in time as agreed by him, accordingly they decided to stop all business transactions with the Accused and demanded to return their money but the Accused did not return the same on one pretext or the other, hence the dispute between the complainant and Accused in respect of granite business arising out of the terms of the Ex.P.10, in such circumstances, the complainant and Accused shall approach the arbitrator to settle their claim as per the clause 10 of the Ex.P.10 on this count also the claim made by the complainant in respect of alleged payment of Rs.32 Lakhs and the Accused had issued Ex.P.2 for Rs.32 Lakhs towards repayment of the amount received by him for supply of granite blocks cannot be decided by this court as there is a arbitration clause is involved in Ex.p.10 and both parties are bound by the said clause. The complainant even cannot enforce the Ex.P.2 cheque in question unless and until their dispute with regard to supply of granite blocks is resolved by an arbitrator as per the clause 10 of Ex.P.10.

35. Therefore from the above said reasons the complainant and his son have miserably failed to prove that, the Accused had received an amount of Rs.32 Lakhs from them on different intervals by assuring to supply granite blocks but he did not supply any materials to them and in turn he was discharge o f the said amount has issued the Ex.P.2 cheque for Rs.32 Lakhs in favour o the complainant i.e. to clear his debt and liability.

36. The Accused in order to rebut the presumptions, himself examined as DW.1 who in his evidence has admitted that, he is the proprietor of AN Export and doing granite business and complainant is the owner of Lion Apex Trading company but he denied the amount of Rs.50 Lakhs paid by the son of the complainant towards sale consideration amount and also issuance of the subject cheques in question. The Accused/DW.1 stated that, the complainant was introduced by Anantharamrao in the year 2011 and he was doing the business and funding the loan on interest of 5% p.a. or 7% p.a. and some times he has taken 14 Lakhs loan from him on interest basis and has given 14 cheques for Rs.1

lakh each and three blank cheque for security basis and all cheques have cleared and the complainant has also given loan for Rs.2 Lakh and has collected full and final settlement from him but he did not returned his three blank cheques inspite of request made by him . The Accused/DW.1 has also stated that, he was purchased certain plots from Sri. C.Venktatachalapathi and sale agreement was executed with him on 2.9.2011 and he has paid Rs.22,50,000/= by way of cheque and Rs.25 Lakhs by way of cash to the vendor and thereafter he was unable to arrange the complete amount of the sale agreement and has cancelled the sale agreement dated: 17.9.2011 and he was not received any amount from the son of the complainant or complainant and there is no agreement between him and the complainant or his son and the complainant and his son is in the business of granite without government authorization and vat certificate and they are not authorized to lead such business and the Lion Apex trading company as per the status report is strike off company. The Accused/DW.1 further stated that, he had the bank details to show that complainant has received amount from his account but the complainant has not produced the same and complainant has received an amount of Rs.10 Lakhs from him. he further deposed that, he have the cheques in the year 2011 which were very old cheque and had taken the loan of Rs.14 Lakhs and 3 security cheques given to the complainant , the complainant in order to grab the amount from him has misutilized the cheques.

37. The Accused in support of his oral evidence ha produced the plenty of documents which are i.e. Statement of Accounts pertaining to Punjab National Bank Account for the period from April 2012 to March 2013 and pertaining to AN Expert Account bearing No. 408002100006751 in Punjab national Bank for the period from April 2012 to March 2013 are as per Ex.D.1 and D.2 respectively, copy of the Statement of Accounts pertaining to AN Export, Punjab National Bank Account bearing No. 4080008700000669 for the period from April 2013 to March 2014, Statement of Account pertaining to the account of Angada Soft Ware Venture Private Ltd., for the period of 29.6.2012 to 30.6.2012 as per Ex/D/3 and D.4 respectively, Vat -100 certificate for the month of January 2012 , Vat-100 certificate for the month of February 2012 as per Ex.D.5 and D.6 respectively, I.T. Returns along with profit and loss and schedule documents for the year 2010-11 , 2012-13, 2013-14, are as per Ex.D.7 to D.9 respectively, Form No.6 and 11 as per Ex.D.10, Transit form weigh bill as per Ex.D.11, Original Central Sale Tax for the month of January 2012 as per Ex.D.12, Invoice Bill dated: 19.5.2012 as per Ex.D.13, copy of the Statement of Accounts pertaining to AN Export Punjab National Bank Account bearing No. 4080002100006751 for the period from 22.1.2011 to March 2014 as per Ex.D.14, copy of the Statement of Accounts pertaining to AN Expert Punjab National Bank Account bearing No. 4080008700000669 for the period from 31.10.2011 to 22.11.2011 as per Ex.D.15, computer downloaded copy of the LLP Master Data as per Ex.D.16, 3 invoice and 3 e-Sugam Form as per Ex.D.17 to D.22, Down loaded computer copy of Central Sale Tax Registration Form along with certificate filed U/s.65(b) of Indian Evidence Act as per Ex.D.23 and D.24 respectively.

38. The Accused has also examined two witnesses on his behalf as DW.2 and DW.3 who in their evidences stated that, they knows the complainant and Accused and the complainant has helped them many times during their needs and the Accused was introduced to the complainant in the year 2011 and the complainant has given some money to the Accused on interest of 5% p.m. due to that, the Accused has given certain cheques and some cheques in blank for security purpose.

39. It is a relevant here to mention that, the Accused during the course of his cross-examination has admitted that, he has not produced the documents to show that, he has availed a loan from the complainant and paid interest to the complainant and also admitted that, he has issued 14 cheques for Rs.1 Lakh each and out of them 12 cheques have been encashed by the complainant and relating to the two cheques has paid amount by way of cash. It is also true that, he has not produced the documents but the Accused during the course of his cross-examination has specifically stated that, he has issued blank cheques to the complainant and also denied a suggestion that, whenever he received money from the complainant he used to give cheques towards security and also issued cheques which are at Ex.P.19 to P.23 in favour of the complainant at the time of borrowing the loan amount. The Accused during the course of his cross-examination though he has admitted that, the execution of the agreement of sale in favour of the son of the complainant by the vendor Sri.Venkatachalapathi as per Ex.P.18 and agreement of sale between him and Venkatachalapathi as per Ex.P.16 and he has paid an amount of Rs.50 Lakhs to the Sri.Venkatachalapathi towards purchase of the sites as per Ex.P.16 and also admitted the cancellation deed for Agreement of Sale between him and Sri.Venkatachalapathi as per Ex.P.17 and on the same day, the execution of agreement of sale between the son of the complainant and the Sri.Venkatachalapathi as per Ex.P.18, but the Accused has specifically denied the suggestions made to him that, he has received an amount of Rs.50 Lakhs from the complainant on different dates by way of cheques and after receiving the said amount the complainant and his son came to know that, the agreement of sale got executed in his favour thereafter they objected and demanded for return of the amount paid by them and thereafter he got cancelled the agreement of sale i.e Ex.P.16 registered in his name as per the cancellation deed Ex.P.17 and thereafter made new agreement for sale from Sri.Venkatachalapathi in favour of his son as per Ex.P.18. The Accused has also denied the suggestions made to him that, he has received an amount of Rs.32 Lakhs from the complainant towards supply of granite blocks and at the time of receiving the said amount, has issued the cheques as a security as per Ex.P.19 to P.23 and he used to pay the profit of the granite business and continued by retaining the principal amount with him. Hence, on entire perusal of the cross-examination of Accused he nowhere admitted that he has received an amount of Rs.50 Lakhs from the complainant and his son as an advance payment towards sale consideration and promised to get agreement of sale in favour of the complainant and his son. It is true that, the Accused has admitted that, the cheque in question i.e Ex.P.1 and P.2 are belongs to his account and signatures found at Ex.P.1(a) and P.2(a) are those of his signatures but he denied that, the Ex.P.1 and P.2 have been issued to the complainant towards discharge of debt and liability in question i.e. Ex.p.1 is issued towards the amount of Rs.50 Lakhs received as payment of advance sale consideration by agreeing to pay interest for the period of three years i.e total amount of Rs.64 Lakhs and Ex.P.2 is issued towards repayment of the amount received by him for supply of granite blocks.

40. It is relevant here to mention that, the Accused has denied the alleged amount of Rs.50 Lakhs paid by the complainant and his son to him towards advance sale consideration amount and also agreed to repay the said amount along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs and also denied issue of Ex.p.1 and P.2 towards the said amount of Rs.96 Lakhs but he has taken a specific defence that, he have the cheques of the year 2011 i.e. old cheques and had given three blank cheques as a security to the complainant at the time of borrowing of loan of Rs.14 Lakhs along with the 14 cheques for Rs.1 Lakh each but inspite of repayment made by him, the complainant in order

to grab the amount from him has not returned the said cheques and has misused the said cheques. It is important to mention here that, the learned counsel for the complainant during the course of cross-examination of the Accused has produced six cheques bearing No. 195159, 531056, 148578, 279402 and 195174 belongs to the Accused by confronting the said cheques to the Accused and suggested that, the said cheques have been given by the Accused whenever he borrowed amount from the complainant, hence the very suggestions made on behalf of the complainant itself sufficient to hold that, the complainant used to collect the cheques from the Accused whenever he advanced loan amount to the Accused. It is also important to note here that, on careful perusal of the Ex.P.19 to P. 23 it appears that, the said cheques belong to the Accused and bears the signatures of the Accused and also seen that, there is no mentioning of payee's name in the said cheques but the amounts of Rs.8 Lakhs, 7 Lakhs, 5 Lakhs, 5 Lakhs, and Rs.7 Lakhs has been mentioned in the said cheques, hence it goes to show that, the complainant had collected the said blank cheques from the Accused and it also corroborates the defence of the Accused that, he has given three security cheques to the complainant at the time of borrowing a loan from him, if really the complainant is not having habit of collecting the blank cheques from the Accused, then the complainant would have stated the custody of the Ex.P.19 to P.23 cheques of the Accused in his favour but the complainant surprisingly produced the Ex.P.19 to P.23 i.e. the cheques though there is no mentioning of his name in the said cheques by contending that, the said cheques have been issued by the Accused whenever he received the money from the Accused, in such circumstances it can be inferred that, the complainant has collected the blank cheques of the Accused as stated by the Accused in his defence.

41. It is the specific case of the complainant that, the Accused has received an amount of Rs.50 Lakhs towards advance sale consideration amount in respect of revenue sites from the complainant's son and after receipt of the said amount the Accused was not willing to get the original sale deed done, as there were many disputes on the sites and the market value for the said property increased to doubled, however, the Accused agreed with him and his son to repay the advance sale consideration amount of Rs.50 Lakhs along with additional extra amount of Rs.46 Lakhs in total of Rs.96 Lakhs to them as he would not be able to get the site registered, hence the complainant and his son have agreed to take the payment in the form of cheques, accordingly the Accused has issued Ex.P.1 cheque for Rs.64 Lakhs and Ex.P.2 cheque for Rs.32 Lakhs in their favour, thereafter the complainant presented the said cheques to his banker the same were dishonoured for the reason as "Insufficient Fund and Payment Stopped by Drawer" and thereafter he got issued legal notice to the Accused through RPAD but he has avoided to receive the said notice and did not repay the amount covered under the cheques, hence the Accused has committed an offence U/s.138 of N.I. Act. It is settled law that, in order to constitute an offence punishable U/s.138 of N.I. Act, there must be existence of legally recoverable debt as on the date of issuance of the cheque by the drawer. In the present case though the complainant has contended that, the Accused has issued Ex.p.1 and P.2 cheques for total sum of Rs.96 Lakhs towards return of alleged advance sale consideration amount of Rs.50 Lakhs and additional amount of Rs.46 Lakhs as agreed by the Accused. But whereas the complainant and his son during the course of evidence they have consistently stated that, the Accused has issued two cheques i.e. Ex.P.1 for Rs.64 Lakhs towards the advance payment of Rs.50 Lakhs received by him along with 14 Lakhs interest i.e. total Rs.64 Lakhs towards the advance amount of sale consideration received by the Accused and the remaining amount of Rs.32 Lakhs i.e. Ex.P.2 is issued by the Accused in respect of the amount received by the

Accused towards supply of granite box as per the agreement i.e. Ex.P.10 executed between the complainant's company and Accused company. Hence, the oral and documentary evidence adduced by the complainant clearly goes to show that, the complainant is claiming Ex.P.1 cheque is in respect of alleged advance sale consideration amount paid by his son and interest alleged to have been agreed to pay by the Accused and Ex.P.2 is claiming in respect of the amount of Rs.32 Lakhs paid by the complainant towards supply of granite box, hence the claim made by the complainant itself sufficient to hold that, the Accused has not issued the Ex.p.1 and P.2 cheques as claimed by the complainant in his complaint that, the Accused had agreed to return advance payment of Rs.50 Lakhs and also agreed to pay extra additional amount of Rs.46 Lakhs in total Rs.96 Lakhs and in order to pay the said amount the Accused has issued Ex.P.1 and P.2 cheques in question, in such circumstances it can be held that as on the date of issuance of the cheque the Accused was not agreed to return the advance sale consideration amount along with additional extra amount of Rs.46 Lakhs i.e. in total Rs.96 Lakhs in favour of the complainant and the subject cheques i.e. Ex.P.1 and P.2 were not issued by the Accused as claimed by the complainant. In such circumstances, even though the subject cheques in question were dishonoured for want of insufficient funds and payment stopped by drawer" as per the endorsement issued by the banker no presumption can be drawn in favour of the complainant and the Accused has not committed an offence U/s.138 of N.I. Act. In addition to that, it can also be held that, though the presumptions U/s.118 and 139 of the N.I. Act are available in favour of the complainant but the complainant has not proved his claim with cogent and convincing evidence, on the other hand, the Accused has led rebuttal evidence and his oral and documentary evidence supports his stands, at the same time it creates doubt about the case of the complainant. Therefore for the above said reasons the Accused has successfully rebutted the presumptions available to the complainant by producing and cogent and convincing evidence to hold that, he has not committed an offence as alleged by the complainant.

42. On careful considering the written argument submitted by the learned counsel for the complainant and also the decisions relied upon by the learned counsel for the complainant it can be held that, the arguments canvassed by the learned counsel for the complainant are not acceptable one, since the complainant himself has failed to prove that, he and his son have paid an amount of Rs.50 Lakhs as advance sale consideration towards purchase of the revenue sites and the Accused in turn agreed to return the said amount of Rs.50 Lakhs along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs and he has issued subject cheques towards discharge of the said debt. The contents of the written argument in para No. 4 to 11 are not accepted in view of the reasons and findings given in the above while appreciating the oral and documentary evidence of the complainant and Accused. With due respect to the principles of law laid down by the Hon'ble Apex court and also Hon'ble High Court of Karnataka relied upon by the learned counsel for the complainant are not applicable to the case of the complainant, since the Accused in this case has successfully rebutted the presumption available to the complainant, U/s.118 and 139 of N.I. Act.

43. Therefore, on careful scrutiny of over all evidence of the complainant and Accused as it is already held and come to the conclusion that, the complainant has miserably failed to prove that, he and his son have paid an amount of Rs.50 Lakhs as advance sale consideration towards purchase of the revenue sites and the Accused in turn agreed to return the said amount of Rs.50 Lakhs along with additional amount of Rs.46 Lakhs in total Rs.96 Lakhs and he has issued subject cheques towards

discharge of the said debt. No doubt, some discrepancies have been elicited by the complainant during the cross-examination of Accused but there are no proof regarding the same, however when the complainant himself has failed to establish his case beyond all reasonable doubt, he cannot be permitted to find fault in the defence of the Accused. Hence the standard of proof is expected from side of the complainant is proof beyond all reasonable doubt and in the present case complainant has failed to prove his case beyond all reasonable doubt on the contrary the Accused has successfully rebutted the presumption available infavour of the complainant U/s.118 and 139 of N.I. Act by taking reasonable and probable defence, accordingly for the above said reasons this point is answered in the 'Negative'.

44. Point No.2: In the light of discussions made at above point and for the said reasons this point is answered in the negative and it is just and proper to pass the following :-

ORDER Acting U/sec.255(1) of Cr.P.C. the accused is acquitted for the offence punishable U/sec.138 of N.I.Act.

Personal bond and surety bond executed by the Accused stands cancelled.

(Directly dictated to the Stenographer online, printout taken by her, verified, corrected and then pronounced by me in the open Court on this the 20th day of January 2020).

(SRI.S.B. HANDRAL), XVI ACMM, Bengaluru City.

ANNEXURE

1. List of witness/s examined on behalf of the Complainant:-

P.W.1 : Sri. Bheemappa;
P.W.2 : A.B.Narendra;

2. List of documents exhibited on behalf of the Complainant:-

Ex.P-1 & P-2 : Original Cheques;
Ex.P-1(a) & P-2(a) : Signatures of the Accused;
Ex.P-3 & P-4 : Bank Memos;
Ex.P-5 : returned Legal Notice;
Ex.P-6 : Postal cover;

Ex.P-7 : postal Receipt

Ex.P-8 : postal acknowledgement

Ex.P-9 : Bank Statement,

Ex.P-10 ; original document of Selling and

Purchase contract dated: 4.2.2011
Ex.P.10(a) to ; signatures of the Accused

10(e)

Ex.P.10(f) to signatures of the PW.2 ;
P.(i)
Ex.P.10(j), signatures of the DW.2;
Ex.P.10(k) : Signature of DW.3;
Ex.P.11, : letter issued by the Accused dated:
27.1.2011
Ex.P.11(a) : signature of the Accused
Ex.P.12 Original Sale of Agreement deed

cancellation dated: 17.9.2011 executed between the Accused and
Sri.Venkatachalapathi Ex.P.12(a) to : signatures of the Accused P.12(e), Ex.P.12(f),
signature of the PW.2 ; Ex.P.13 : original Sale Agreement dated:

17.9.2011 as per Ex.P.13.

Ex.P.14 & : copies of the Statement of Accounts P.15 pertaining to his Bank account in Bank of
Maharashtra and Grain Merchant Co-

operative Bank Ltd., (Marked through PW.2), Ex.P.16 : certified copy of the Agreement of Sale
dated: 2.9.2011 ;

(Marked through PW.2), Ex.P.17 : certified copy of the Agreement cancellation Deed dated:
17.9.2011 (Marked through PW.2), Ex.P.18 : certified copy of the Sale Agreement dated: 17.9.2011
(Marked through PW.2), Ex.P.19 to : Original cheques;

P.23 (Marked through DW.1),
Ex.P.19(a) to signatures of the Accused
P.23(a) (Marked through DW.1),

Ex.P-24 : Partnership Deed
(Marked through DW.2),
Ex.P.24(a) : signatures of the witness
(Marked through DW.2),
Ex.P.25 : Rental Agreement Deed;
(Marked through DW.2),

Ex.P.25(a) & : Rental Agreement Deed as per Ex.P.25, 25(b) signature of the witnesses and DW.3 (Marked through DW.2),

3. List of witness/s examined on behalf of the Accused:-

DW.1 : Sri.Manjunath;
DW.2 : Sri.Anantharam;
DW.3 : Sri.Hareesh Lingegowda.

4. List of documents exhibited on behalf of the Accused:-

Ex.D.1 & D.2 : copies of his Statement of Accounts pertaining to Punjab National Bank Account for the period from April 2012 to March 2013 and pertaining to AN Expert Account bearing No. 408002100006751 in Punjab national Bank for the period from April 2012 to March 2013;

Ex.D.3 & D.4 : copy of the Statement of Accounts pertaining to AN Export, Punjab National Bank Account bearing No. 4080008700000669 for the period from April 2013 to March 2014 and Statement of Account pertaining to the account of Angada Soft Ware Venture Private Ltd., for the period of 29.6.2012 to 30.6.2012;

Ex.D.5 : Vat -100 certificate for the month of January 2012;

Ex.D.6 : Vat-100 certificate for the month of February 2012;

Ex.D.7 to D.9 : I.T. Returns along with profit and loss and schedule documents for the year 2010-11, 2012-13, 2013-14;

Ex.D.10 : Form No.6 and 11;
Ex.D.11 : Transit form weigh bill;
Ex.D.12 : Original Central Sale Tax for the month of January 2012;
Ex.D.13 : Invoice Bill dated: 19.5.2012;
Ex.D.14 : copy of the Statement of Accounts

pertaining to AN Export Punjab National Bank Account bearing No. 4080002100006751 for the period from 22.1.2011 to March 2014;

Ex.D15 : copy of the Statement of Accounts pertaining to AN Expert Punjab National Bank Account bearing No. 4080008700000669 for the period from 31.10.2011 to 22.11.2011;

Ex.D.16 : computer downloaded copy of the LLP Master Data;

Ex.D.17 to. ; 3 invoice and 3 e-Sugam Form; D.22 Ex.D.23 & : Down loaded computer copy of Central D.24 Sale Tax Registration Form along with certificate filed U/s.65(b) of Indian Evidence

Act (SRI.S.B.HANDRAL), XVI ACMM, Bengaluru City.

20.1.2020 Judgment pronounced in the open court vide separate order.

ORDER

Acting U/sec.255(1) of
Cr.P.C. the accused is acquitted
for the offence punishable
U/sec.138 of N.I.Act.

Personal bond and surety
bond executed by the Accused
stands.

XVI ACMM, B'luru.