

And Accused Have Become Close Friends vs Recorded By Explaining The Substances ... on 5 January, 2021

SCCH-2

1

CC.NO.27444/16

IN THE COURT OF THE VI ADDL. JUDGE, COURT OF SMALL
CAUSES & ADDL. CHIEF METROPOLITAN MAGISTRATE,
BENGALURU CITY

DATED THIS THE 5th DAY OF JANUARY 2020

PRESENT: Smt. K.UMA., B.A.L.,LL.B.,
VI Addl. Judge,
Court of Small Causes
& ACMM, Bengaluru.

C C No.27444 of 2016

JUDGMENT U/S 355 OF Cr.P.C.1973

1. Sl. No. of the case : C.C. No.27444/2016

2. The date of commission of
the offence :

3. Name of the Complainant : Sri. K.S. Shashikumar,
S/o K.L. Shivappa,
Aged about 36 years,
R/at No.32/1, J.S. Nagar,
Nandini Layout,
Bengaluru-560 096.

(By Sri.Sandesha A.S., Advocate)

- Vs. -

4. Name of the Accused : Sri. Ramegowda B.K.,
Aged about 50 years,
R/at Sri. Venkateshwara Bakery
and Sweets,
Laggere Main Road,
Rajeevgandhi Circle,
Opp. Kalikamba Temple,

SCCH-2

2

CC.NO.27444/16

Peenya Post,

Bengaluru-560 058.

(By Sri. Lokesh R.Yadav, Advocate.)

- | | |
|--|--|
| 5. The offence complained of or proves | : Under Section 138 of the Negotiable Instruments Act. |
| 6. Plea of the accused and his examination | : Pleaded not guilty |
| 7. Final order | : Accused is Conviction. |
| 8. Date of such order for the following; | : 05-01-2021. |

JUDGMENT

This complaint is filed by the complainant against the accused under Sec.200 of Cr. P. C. for the offence punishable under Section 138 of the Negotiable Instruments Act. Cognizance of the offence was taken on presentation of the private complaint and ordered to register the criminal case, as there were prima facie materials to proceed against the accused.

2. It is the contention of the complainant that:

The accused was running a bakery in Laggere Main Road, Bengaluru, which is very near to the office of complainant. Both Complainant and accused have become close friends, as the complainant was visiting the said bakery. Yielding to the request of the accused during the 1st week of March 2016, for financial assistance to discharge personal loan and for the development of his business, the Complainant has pledged his gold ornaments and lent loan of Rs.6,50,000/- to the accused on 22.03.2016 by way of cash.

3. To discharge the loan the accused issued cheque bearing No.935296 dated:19.09.2016 drawn on Centurion Bank of Punjab, Peenya Branch, Bengaluru for Rs.6,50,000/-, in favour of the Complainant. On presentation of cheque through his banker Deepak Sahakari Bank, Mahalakshimpuram Branch, Bengaluru maintained by Apex Co-Op Bank Ltd., (AXB), was dishonored on 08.11.2016 with a banker shara "Drawers Signature Differs". Therefore, the complainant has sent legal notice and the said notice was served on accused on 18.11.2016. Despite notice of demand the accused has failed to pay the amount covered under cheque within statutory period of notice of demand. Hence, this complaint.

4. On being served the summons, the accused appeared through his counsel and he was released on bail. Plea of the Accused, recorded by explaining the substances of accusation. Accused pleaded not guilty and claims to be tried. The Accused filed application under Section 145(2) of N.I. Act, seeking permission to cross-examine Complainant and to proceed in accordance with Law. Accordingly, the application is allowed and the Accused is permitted to cross-examine Complainant/PW-1.

5. In proof of the contention, the complainant got examined himself as PW.1, by filing affidavit in lieu of sworn statement and got marked Exs.P.1 to Ex.P.6. After closure of Complainant's evidence, the Accused was examined under Section 313 of Cr.P.C. by explaining the incriminating circumstances appearing in the evidence of the Complainant. The Accused has denied the prosecution version in toto. The accused got himself examined as D.W.1 and got marked documents at Ex.D.1 to Ex.D.8.

6. Heard arguments of both the parties. The Counsel for accused has submitted written notes of arguments.

7. The learned counsel for the complainant has submitted the following citations:

1. Criminal Appeal No.1870-1909 of 2012
2. Criminal Petition No.6917 of 2015

8. The learned counsel for the Accused has also submitted the following citations:

1. 2016 AIR SCW 541
2. (2015) 1 Supreme Court Cases 99
3. 2012 CRI. L. J. 804

9. Following points that arise for my consideration;

1. Whether Complainant proves beyond all reasonable doubt that Accused has committed an offence punishable under Section 138 of Negotiable Instruments Act?
2. What order?

10. My findings to the above points are:

Point No.1 : In the Affirmative.

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

REASONS

11. POINT NO.1: The Complainant -Mr. K.S. Shashikumar in proof of his contention got examined himself as P.W.1, who filed affidavit in-lieu of oral sworn statement P.W.1 has deposed in consonance with the averments of the complaint. According to P.W.1 the cheque - Ex.P.1 has been issued by the Accused towards discharge of hand loan. The cheque on presentation returned as "Drawers Signature Differs" as per the bank endorsement produced at Ex.P.2. Hence, he got issued

legal notice, which is produced at Ex.P.3 through RPAD vide postal receipts marked at Ex.P.3(a), which is served on the Accused as per Ex.P.4 - Postal acknowledgement. In further chief-examination P.W.1 has produced Bank pass books held in Kaveri Grameena Bank as per Ex.P.5 and Ex.P.6. This is the evidence placed by the Complainant, in support of his contention.

12. On perusal of the oral and documentary evidence placed by the Complainant, it reveals that, the complaint is filed well within time in accordance with the provisions of Negotiable Instruments Act. Moreover, there is no dispute with regard to taking cognizance of the offence punishable under Section 138 of N I Act.

13. On the other hand the accused in proof of his defense got examined himself as D.W.1. In chief-examination DW-1 has deposed that, he came to know about the present proceedings when the police and the complainant have come near his house and after appearing before this court, he came to know about filing of this complaint against him by the complainant for Rs.6.5 Lakhs. D.W.1 has deposed that, he did not borrow loan of Rs.6.5 Lakhs from the complainant. D.W.1 has deposed that, his wife had borrowed loan of Rs.6,00,000/- from Somashekar and had mortgaged house owned by her. At that time he had given a bond paper and cheque which is produced before this Court and another cheque to Somashekar, however he do not remember the correct cheque numbers. DW-1 has further deposed that his wife had repaid Rs.3,00,000/- to Somashekar during 2015.

14. D.W.1 has further deposed that, both the complainant and Somashekar are friends. His wife had issued notice to both the complainant as well as to Somashekar with regard to repayment of Rs.3,00,000/- out of total amount of Rs.6,00,000/- borrowed by her from Somashekar. The complainant had received the said notice, whereas Somashekar had refused to receive the notice. DW-1 has further deposed that, the notice sent by his wife is produced at Ex.D.2, Postal Acknowledgments and returned postal cover are marked at Ex.D.3 to Ex.D.5. D.W.1 has deposed that, he is an Auto driver since 1987 and he has produced the notarized copy of D.L. at Ex.D.6. D.W.1 has further deposed that, Somashekar had got executed one more mortgage deed for Rs.16,00,000/- without there knowledge, stating that, the earlier one is not correct and after knowing the said fact, his wife had given complaint to Commissioner of Police against Somashekar and the complainant herein and the said complaint is produced at Ex.D.7. D.W.1 has further deposed that, Shashikumar and Somashekar have filed civil suit against his wife with regard to mortgage deed. The copy of summons served to his wife and the copy of plaint are produced at Ex.D.8. D.W.1 has further deposed that, in order to take the house, they have filed false case against him.

15. With this evidence of Complainant and defence of Accused, I shall examine the defense put-forth by the Accused in the light of the principles enunciated in the dictum of Hon'ble Apex Court in Krishna Janardhan Bhat Vs. Dattatreya G Hegde, reported in 2008 (4) SCC 54. The Hon'ble Apex Court has observed thus; Section 139 of the Act merely raises a presumption in regard to the second aspect of the matter. Existence of legally recoverable debt is not a matter of presumption under Section 139 of the Act. It merely raises a presumption in favour of a holder of the cheque that, the same has been issued for discharge of any debt or other liability.

16. The learned counsel for Complainant during course of arguments has relied on decisions in Criminal Appeal No.1870-1909 of 2012 in case of M/s Laxmi Dyechem Vs. State of Gujarat and Others. And Criminal Petition No.6917 of 2015 in case of Sri. H.N. Sudesh Kumar Vs. M/s Beardsell Limited.

17. On the other hand the learned counsel for the accused has argued that there is no source of income to lend loan as asserted in the complaint and in support of his defence relied on a decision reported in (2015) 1 Supreme Court Cases 99 in the case of K.Subramani Vs. K. Damodara Naidu. The Hon'ble Apex Court in its decision has held thus;

"Legally recoverable debt not proved as complainant could not prove source of income from which alleged loan was made to accused." 2012 CRI. L. J. 804 in case of H.P. Moodalappa Vs. C.A. Chowrappa.

2015 AIR SCW 541 in case of Ramdas S/o Khelu Naik Vs. Krishnanand S/o Vishnu Naik.

18. It is necessary to point out the mandatory presumption to be raised in respect of negotiable instrument as contemplated under Negotiable Instruments Act. Indisputably, a mandatory presumption is required to be raised in terms of Section 118 (b) and Section 139 of the Act. Section 138 of the Act has three ingredients viz.:

1. that there is a legally enforceable debt;
2. that the cheque was drawn from the account of bank for discharge in whole or in part of any debt or other liability which presupposes a legally enforceable debt; and
3. that the cheque so issued had been returned due to insufficiency of funds.

19. On hearing arguments canvassed by the Complainant and the Accused, it is relevant to point out that in the present nature of cases the court has to determine whether version of Complainant is true or the theory put-forth by the Accused is true?.

20. At the outset, an essential ingredient of Section 138 of N I Act is that, the cheque in question must have been issued towards legally enforceable debt. Under Section 118 of the Act, a presumption shall be raised regarding consideration, date, transfer, endorsement and regarding holder in the case of negotiable instruments. Even under Section 139 of the Act, a rebuttable presumption shall be raised that, the cheque in question was issued regarding discharge of legally enforceable debt. These presumptions are mandatory provisions that are required to be raised in case of negotiable instruments.

21. Keeping in mind the position of law as stated supra, let me deviate to appreciate the evidence of PW-1 deposited during cross-examination. On appreciation of the evidence of the Complainant deposited during cross-examination, it indicates that, he has studied up to 2nd P.U.C. and he is aware of Kannada and English language to read and write. P.W.1 has deposited that, there is 20 years of age

gap between him and the accused. P.W.1 has denied the suggestions given to the effect that, he has given wrong information stating himself and the accused are friends. PW-1 has deposed that, apart from his office work he gets rent. He has bank account at S.B.I and Deepak Sahakari Bank and he does all transactions by using the said bank accounts.

22. On further appreciation of the evidence of PW-1 deposed during cross-examination, it is forthcoming that, he is aware of the contents of legal notice, complaint and sworn statement. He was aware about the entire facts of the case at the time of sending the legal notice. According to P.W.1, in the legal notice he stated that accused had borrowed loan in order to improve his business, which is situated at Laggere Main road and he is used to visit the said Bakery and he came in contact with the accused. According to P.W.1 the accused had approached him in the third week of March 2016 requesting him for hand loan; he had informed the accused that, he will arrange the money within 15 days and accordingly he had drawn money from Kaveri Grameena Bank account and paid loan to the accused on 22.03.2016. P.W.1 had deposed that, he do not have documents to show that, the accused is running bakery. P.W.1 has deposed that, he is resident of Channarayapatna and he pledged gold ornaments at Chikkamagalur on 21.03.2016. P.W.1 has denied the suggestions given to the effect that, he has pledged the gold ornaments on 22.03.2016 for his own purpose.

23. On further appreciation of the evidence of PW-1 deposed during cross-examination, it is forthcoming that, P.W.1 has admitted that, there is difference in the signature appeared on Ex.P.1 cheque and postal acknowledgment as well as there is difference in signature in Ex.P.1 and statement recorded U/s 313 of Cr.P.C. According to complainant he is aware of accused since 10 to 15 years. P.W.1 has deposed that, he is aware of the fact that, accused is an auto driver. However, according to P.W.1, the accused is running auto since 3 years. P.W.1 has denied the suggestions given to the effect that, the accused was running auto prior he came in contact with the accused. According to complainant, the accused had requested him for loan of Rs.8,00,000/- but he has paid Rs.6,50,000/-. P.W.1 has deposed that, he did not produce any documents to establish that the gold ornaments, which are pledged does belongs to him and he did not produce any documents for purchase of said gold ornaments. P.W.1 has deposed that, he has bank account at Chikkamagaluru, which is the native place of his wife and address shown in Ex.P.5 bank pass book does belong to his in- laws.

24. On further appreciation of the evidence of PW-1 deposed during cross-examination, P.W.1 has denied the suggestion given to the effect that, the money was not given to accused as per Ex.P.5 and Ex.P.6 bank pass books and same was used by him. P.W.1 has deposed that, he do not have any documents about the financial transaction of Rs.6.5 Lakhs between him and the accused. PW-1 has deposed that, his monthly income is Rs.50,000/-. He is an income tax assessee but he did not shown the loan advanced to accused in the balance sheet. According to P.W.1 the accused had promised him that, he would return the loan along with bank interest. According to P.W.1 after filing of this case, the wife of accused had approached and requested for compromising the case. P.W.1 has deposed that, he had lent loan to the accused on various dates prior to the present case transactions and which has been repaid by the accused. He do not have any documents to that effect. P.W.1 has deposed that, since 15 years there was financial transaction between him and the accused. P.W.1 has deposed that, he had arranged loan from other persons, which was directly to

accused, has per request.

25. On further appreciation of the evidence of PW-1 deposed during cross-examination, P.W.1 has admitted the suggestions stating that, he had asked Somashekar to lend loan to accused and he is aware of Somashekar since 2000. P.W.1 has further deposed that, he has signed as a witness to the documents, when the accused had borrowed loan from Somashekar. P.W.1 has deposed that, on 04.07.2012 as per mortgage deed, Somashekar had lend loan of Rs.6,00,000/- to the accused and again deposed that, himself and Somashekar have paid Rs.16,00,000/- to the accused. P.W.1 has admitted that, there was mortgage deed between Somashekar and wife of accused on 28.12.2012. The first mortgage deed was executed on 04.07.2012 and the second mortgage deed was executed on 28.12.2012 and there is a difference of five months and the first mortgage deed was not cancelled. P.W.1 has deposed that, he did not mention as to how much loan was lent as per the mortgage deed dated:04.07.2012 to the accused. According to P.W.1 he had lent loan of Rs.8,00,000/- as per mortgage deed, but he did not state about the mortgage deed in the legal notice.

26. On further appreciation of the evidence of PW-1 deposed during cross-examination, the legal notice issued to the wife of accused is confronted and marked as Ex.D.1. P.W.1 has denied the suggestions given to the effect that, at the time of mortgage deed he had asked the accused to issue two cheques to Somashekar. P.W.1 has denied the suggestions that, after bouncing of cheque he got issued legal notice in the name of Sathish to the accused. All further possible suggestions have been denied by P.W.1.

27. With this evidence of complainant, let me deviate to appreciate the evidence of witness of accused/DW-1 deposed during cross-examination. On appreciation of the evidence of D.W.1 deposed during cross-examination it is forthcoming that, he is the resident of Laggere since 20 years. He studied up to S.S.L.C. and he is not doing bakery business, but his wife is doing bakery business. He is not related to the said bakery business, which is opened by his wife at Rajeev Gandhi Nagar, Laggere. D.W.1 has deposed that, Ex.P.1 cheque does belong to him, which was given for security to Somashekar, while taking loan by his wife from Somashekar, and he had also given a blank stamp paper and two blank cheques. The signature appearing in Ex.P.1 cheque and Ex.P.4 postal acknowledgment, is not that of him as well as in Ex.P.4. He do not know who has received notice and the address mentioned in the postal acknowledgment is not that of him. Sri. Venkateshwara Bakery does belong to his wife, which is mentioned in Ex.P.4 postal acknowledgment.

28. On further appreciation of the evidence of D.W.1 deposed during cross-examination that, the signature appearing in vakalath, which is filed on his behalf by his advocate as well as the signature appearing in plea and 313 statement does belong to him. There is a difference in signature in the 1st page as well as in the 2nd page of plea. According to D.W.1 he has no intention to put signature in two different styles. The signatures appearing in Ex.P.1 cheque as well as in plea are one and the same. D.W.1 has denied the suggestion given to the effect that, in order to repay the loan amount, he has affixed the signature on Ex.P.1 cheque and issued the same to the complainant. DW-1 has deposed that, his daughter's marriage was solemnized in the month of May 2018. He had come to Court along with his wife in the month of April 2018 and he had given wedding invitation of his

daughter to the complainant along with his wife and invited for marriage. D.W.1 has deposed the suggestion given to the effect that, he had spoken with the complainant about the case along with his wife, but same is not related to him and he did not speak anything with the complainant.

29. On further appreciation of the evidence of DW-1 deposed during cross-examination that, his wife had given complaint to the police-commissioner against Somashekar and Sashikumar. D.W.1 has deposed that, they did not borrow loan of Rs.85,00,000/- in order to construct house, since they had already constructed house and had borrowed hand loan. According to D.W.1 he did not borrow loan, whereas his wife had borrowed loan to the suggestion stating that there is an assertion in the complaint given to the police about borrowing of loan by him and by his wife. D.W.1 has deposed that, his wife has bank account in a bank and he do not know the name of bank.

30. On further appreciation of the evidence of DW-1 deposed during cross-examination it is forthcoming that, at the time of borrowing loan of Rs.6,00,000/- by his wife he was present along with complainant and Somashekar and he had affixed the signature on agreement. He had given two cheques and blank stamp paper to Somashekar towards security of loan of Rs.6,00,000/- in the year 2012. He do not remember, whether the complainant was present at the time of issuance of cheques and blank stamp paper to Somashekar. D.W.1 has deposed that, his wife was not having bank account at that time, hence he had issued cheques to the suggestion that Somashekar had received the cheques stating his wife may cheat him. D.W.1 has deposed that, he did not filed any complaint prior to this case. His wife had lodged the complaint after receiving the summons of this case and after knowing the fact about the initiation of civil case. D.W.1 has deposed that, he was thinking that in connection to payment of loan of Rs.6,00,000/- this case might have filed. All further possible suggestions have been denied by this witness

31. On overall appreciation of the evidence of complainant and accused with documentary evidence placed by the complainant, it is forthcoming that, the complainant and accused were friends. It is the case of complainant that, on request of accused he has advanced Rs.6,50,000/-. According to complainant the accused had issued Ex.P.1 cheque towards repayment of loan amount. The said cheque was returned for the reason drawers signature differs on its presentation. Therefore, he caused legal notice as per Ex.P.3 by calling upon the accused for repayment of loan amount. The entire case of the complainant has been denied by the accused in toto. As appreciated supra, according to accused, he did not borrow loan from the complainant, the cheque which was issued to one Somashekar, as a security to the loan of Rs.6,00,000/- borrowed by his wife, has been misused by the complainant.

32. It is relevant to point out that, according to accused his wife is running Bakery and he does not have any kind of transaction in connection to Bakery Business. It is pertinent to note that, the complainant herein had affixed his signature as a witness on the mortgage deed said to have been executed between the wife of accused and Somashekar. That is to say the accused is aware of the complainant. Furthermore, according to the accused, he had issued two cheques to Somashekar towards security and his wife had also executed mortgage deed in favour of Somashekar. To establish the defence, the accused has neither examined his wife nor Somashekar, to whom he had issued cheque. The Accused has produced legal notice said to have been issued by his wife to

Somashekar and to the complainant herein. Whereas, the accused did not take any legal action neither against the complainant nor against Somashekar, in connection to misuse of cheque.

33. On overall appreciation of evidence of P.W.1 as well as the cross-examination part of P.W.1, it is clear that the accused was well aware of the custody of his cheque by Somashekar. If such being the case, the accused ought to have taken precautions by giving instructions to his banker for stop payment and he ought to have issued notice to the Somashekar asking for return of cheques, since they have mortgaged house. Therefore, the entire evidence of accused is self serving statement and it is not supported by any documentary evidence.

34. It is relevant to note that the legal notice issued to the accused has been served as per Ex.P4 postal acknowledgment, but the accused has taken contention that the notice is not served on him since he did not sign on the postal acknowledgment. The accused did not dispute with regard to the address mentioned in the legal notice. The complainant has sent the legal notice to the proper and correct address of the accused. The accused ought to have taken his defence by issuing reply to the legal notice at very first instance. The oral testimony of Accused is not supported by any documentary evidence. The evidence of Accused is only self explanatory. Moreover, the Accused did not initiate any legal action against the Complainant about misusing of his cheque. The accused has failed to put forth probable defence in his favor with regard to non-issuance of cheque to the Complainant for repayment of loan.

35. It is pertinent to note that, the complainant has produced bank pass books, to establish the source of money to lend loan to accused, as per Ex.P5 and Ex.P6. As per the entries made in the pass book, it appears an amount of Rs.6,75,000/- was credited to his bank account on 21-03-2016 and he had withdrawn an amount of Rs.6,60,000/- on 22-03-2016 at Chickmagalur and paid the money to accused by way of cash on the same day at Bangalore, as per the version of the complainant. However, the complainant has established the source of money for advancement of loan to accused.

36. In so far as signature on cheque is concerned, as deposed by DW-1/accused, though there is deference in signatures of him affixed on plea, one signature affixed on plea tallies with signature affixed on cheque. That is to say, the signature of accused differs from time to time. Though the cheque was returned for signature differs, the accused do not dispute that the cheque does not belong to his bank account. On appreciation of the evidence of accused it appears, the accused has issued cheque by affixing signature on cheque, which was returned unpaid on its presentation for encashment, as signature differs, since, at the time of opening bank account, the accused must have affixed signature in different form. However, the accused did not attempt to get opinion of expert on signature appearing in cheque, to establish that, the signature does not belong to him.

37. As appreciated supra the accused did not take any action against the Complainant for having misused cheque. This particular aspect leads to doubt in the minds of court. According to Accused cheque was issued to Somashekar. As held in the Kishan Rao Vs- Shankargouda, it has to be taken note that mere denial regarding existence of debt shall not serve any purpose, unless the accused rebut the presumptions. In this connection it is not out of place to refer a decision reported in 2006 CrL. L. J. 3760 in case of Smt. Umaswamy Vs- K. N. Ramaiah; wherein the Hon'ble High Court of

Karnataka has observed at para 4 of its judgment that;

"The cheque whether issued for payment of debt or as security makes no distinction in law. The cheque is a negotiable instrument, it may be that sometimes the cheque is issued with a request on the part of the drawer to defer the presentation of the cheque for some time to enable the drawer to make payment by cash and take back the cheque or allow time to arrange funds for encashment of cheque. When the amount is not paid as per oral understanding the payee is well justified to present the cheque for encashment. The cheque even if it is issued as a security for payment, it is negotiable instrument and encashable security at the hands of payee. Therefore, merely because the drawer contends that it is issued as security is not a ground to exonerate the penal liability u/s. 138 of the N. I. Act."

38. As observed in the above citation, it has to be presumed that the cheque in question was issued by the accused to discharge the liability. The accused can place rebuttal evidence so as to show that cheque was not issued for consideration. As appreciated supra accused has failed to put acceptable and satisfactory evidence to probabalise the defence. Therefore, there is no question of saying that the cheque was not issued for liability by the Accused. In the light of the discussion hereinabove, I am of the considered opinion that the complainant has proved that the accused has committed an offence punishable under Section 138 of Negotiable Instruments Act. Accordingly, I answer point No. 1 in the affirmative.

39. POINT No.2:- The Negotiable Instruments Act is a special provision, the provisions of the Act prevail over the general provisions contained in Code of Criminal Procedure. Therefore, keeping the relevant provisions of the Act in mind the sentence is to be passed. In the light of the reasons on the point No.1, I proceed to pass the following;

ORDER The accused is convicted under Section 255(2) of Cr.P.C., for the offence punishable under Section 138 of the Negotiable Instruments Act, and he is sentenced to pay a fine of Rs.7,55,000/- (Rupees Seven Lakhs Fifty Five Thousand only). In default to pay fine the accused shall undergo simple imprisonment for a period of three months.

Further, acting under Section 357(1)(a) of Cr.P.C., out of fine amount of Rs.7,55,000/- (Rupees Seven Lakhs Fifty Five Thousand only), a sum of Rs.5,000/- (Rupees Five thousand only), shall be defrayed as prosecution expenses to the state.

Further, acting under Section 357(1)(b) of Cr.P.C., a sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only), amount on recovery of fine shall be paid as compensation to the complainant.

Bail bond of the accused and that of surety shall stand cancelled.

Supply a free copy of this Judgment to the accused.

(Dictated to the stenographer through online, corrected by me and then pronounced in open court on this the 5th day of January 2021).

(K.UMA) VI Addl. Judge, Court of Small Causes & ACMM, Bengaluru ANNEXURE LIST OF WITNESS EXAMINED ON BEHALF OF THE COMPLAINANT:

P.W.1 : K.S. Shashikumar.

LIST OF DOCUMENTS MARKED ON BEHALF OF COMPLAINANT:

Ex.P.1 : Cheque
Ex.P1(a) : Signature of Accused
Ex.P.2 : Cheque return memo
Ex.P.3 : Copy of Legal notice
Ex.P.3(a) : Postal receipt
Ex.P.4 : Postal acknowledgement
Ex.P.5 : Kaveri Grameena Bank S.B. Account Pass Book.
Ex.P.6 : Kaveri Grameena Bank Loan Account Pass Book.

LIST OF WITNESS EXAMINED ON BEHALF OF THE DEFENCE:

D.W.1 : B.K. Ramegowda.

LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENCE:

Ex.D.1 : Copy of legal notice sent to the wife of accused by the counsel for complainant. Ex.D.2 : Copy of reply notice sent by the wife of accused to counsel for complainant. Ex.D.3 & 4 : Two Postal Acknowledgments. Ex.D.5 : Return Postal Cover sent by the counsel for accused to R. Somashekar.

Ex.D.5(a) : Return notice.

Ex.D.6 : True copy of D.L. of accused.
Ex.D.7 : Complaint given by the wife of accused to Bengaluru police Commissioner.
Ex.D.8 : Copy of plaint and summons in O.S.No.5131/2019.

(K.UMA)
VI Addl. Judge,
Court of Small Causes
& ACMM, Bengaluru

**