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Dashrath vs Gundappa

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Court : Karnataka Orders

Decided On : Dec-18-2025

Judge : Sachin Shankar Magadum

Appeal No. : CRL.P/202108/2025

Appellant : Dashrath

Respondent : Gundappa

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH DATED THIS THE 18TH DAY OF DECEMBER, 2025 BEFORE THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM CRIMINAL PETITION NO.202108 OF 2025 (482(Cr.PC)/528(BNSS)) BETWEEN: DASHRATH S/O NARSAPPA JAMADAR, AGE: 40 YEARS, R/O H.NO.10/44. GHONGADE WASTI, BHAWANI PETH. TQ. AND DIST. SOLAPUR PROP: MAHANT GANEH CONTRACTIONS-413002. PETITIONER (BY SRI. RAJKUMAR SHANTKUMAR KADGANCHI, ADVOCATE) AND:

Digitally signed GUNDAPPA S/O AMBARAYA BODAN, by AL BHAGYA Location: HIGH AGE: 54 YEARS, OCC: BUSINESS & AGRICULTURE, COURT OF PRO. M/S GANESH FURNITURE AND SUPPLICRS

KARNATAKA KAKADE CHOWK, RING ROAD, KALABURAGI, C/O, PLOT NO.81, JR NAGAR, ALAND ROAD, KALABURAGI-585102. RESPONDENT THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (OLD), UNDER SECTION 528 OF BNSS (NEW), PRAYING TO QUASH THE PROCEEDINGS IN C.C NO.1000/2020 (PC NO.597/2019) BEFORE HONBLE II ADDL. JMFC AT -2- KALABURAGI FOR THE OFFENCES PUNISHABLE UNDER SECTION 138 OF NIA ACT AND 420 OF IPC PENDING AGAINST THE PETITIONER BY ALLOWING THE PETITION ON THE GROUNDS MENTIONED HEREIN ABOVE. THIS PETITION, COMING ON FOR ORDERS THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned petition is filed by accused seeking

quashing of the proceedings pending in CC No.1000/2020 arising out of PC.597/2019 for offences punishable under Section 138 of Negotiable Instruments Act (for short "N.I. Act") and Section 420 of IPC. on the ground that the complaint filed on 03.09.2019 and the sworn statement recorded on 08.01.2020 coupled with legal notice issued by the respondent/complainant does not disclose the details on which the money was lent to the respondent.

The second limb of argument addressed by the petitioner/accused is that the cheque issued is by a proprietor of Mahant Ganesh Contractions and therefore, -3- the very existence of legal debt is doubtful and the proceedings are liable to be quashed.

2. Having heard the learned counsel appearing for

the petitioner/accused and upon careful consideration of the material placed on record, this Court is not inclined to accede to the grounds urged in the captioned petition. The

record discloses that a private complaint has been instituted by the complainant alleging commission of an offence punishable under Section 138 of the N.I. Act. Once a private complaint is filed under Section 200 of the Code of Criminal Procedure in compliance with the statutory requirements and timelines prescribed under Section 138 of the N.I. Act, a legal presumption immediately comes into operation under Section 139 of the N.I. Act

3. It is well settled that Section 139 of the N.I. Act

mandates a presumption in favour of the holder of the cheque and against the drawer, to the effect that the cheque was issued towards the discharge, in whole or in -4-

part, of a legally enforceable debt or liability, unless the contrary is proved. This presumption is statutory and mandatory in nature, and the burden squarely lies upon the accused to rebut the same by leading cogent and acceptable rebuttal evidence. At the stage of considering a petition seeking quashing of proceedings, this Court cannot embark upon an appreciation of disputed questions of fact or examine the probable defence of the accused.

4. The grounds urged in the present petition may

constitute a valid defence available to the petitioner during the course of a full-fledged trial; however, such grounds cannot be examined at the threshold so as to stifle the prosecution by invoking the extraordinary jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. No exceptional circumstances are made out to warrant interference at this nascent stage of the proceedings.

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5. Accordingly, without expressing any opinion on the merits of the case and leaving all contentions open to be urged before the Trial Court, the petition stands dismissed. Sd/- (SACHIN SHANKAR MAGADUM) JUDGE ALB List No.: 4 Sl No.: 2 CT:SI

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