HC-KAR
NC: 2026:KHC:50649
CRL.P No. 2857 of 2025
CNR: KAHC010121282025

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 2857 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

SMT BHADRAMMA
W/O NAGAPPA
AGED ABOUT 42 YEARS
R/AT NO 495
5TH CROSS, GOWDANAPALYA
SUBRAMANYAPURA POST
BENGALURU 560061

...PETITIONER

(BY SRI. PRABHAKARA T C., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   REP BY STATE PUBLIC PROSECUTOR
   HIGH COURT BUILIDING
   BENGALURU 560001

2. SMT LEELAVATHI VENKATESH PUNJALI
   W/O VENKATESH
   AGED MAJOR
   R/AT NO 292, 2ND CROSS
   C/O POLICE RAJANNA BUILDING
   BRIGHTWAY SCHOOL ROAD
   DODDAGOWDANAPALYA
   BENGALURU 560061

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED UNDER U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ENTIRE

PROCEEDINGS INITIATED AGAINST THE PETITIONER IN C.C NO. 43740/2024 ARISING OUT OF PCR NO. 16035/2024 FOR AN ALLEGED O/P/U/S 138 OF THE N I ACT PENDING ON THE FILE OF HONBLE XVI ADDITIONAL CHIEF JUDICIAL MAGISTRATE AT BENGALURU CITY COGNIZANCE TAKEN UNDER SEC.223 BNSS ACT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

> *Quash the entire proceedings initiated against the petitioner in C.C No. 43740/2024 arising out of PCR No. 16035/2024 for an alleged O/P/U/S 138 of the N I act pending on the file of Honble XVI Additional Chief Judicial Magistrate at Bengaluru City Cognizance taken under sec.223 BNSS act.*

2. Respondent no.2 had filed a private complaint in PCR No.15607/2024 under Section 223 of the Bharatiya Nagarik Suraksha Sanhita 2023 read with Section 138 of the Negotiable Instruments Act on the ground that the cheque which had been issued by the petitioner to respondent No.2 had been dishonored with the endorsement of no such bank. It is in those circumstances that a notice had been issued. The notice though served, there was no reply issued to the said notice and in pursuance thereof, a private

complaint came to be filed. After recording the sworn statement, a criminal case in CC No.43740/2024 was registered and summons issued. It is challenging the same that the petitioner is before this Court.

3. The submission of learned counsel for the petitioner is that the cheque of the account of the petitioner in Vijaya Bank had not been issued by the petitioner. The said cheque had been misplaced and a police complaint had been filed by the petitioner and the allegation is that respondent has misused the said cheque and presented it on 07.11.2024. Secondly, his submission is Vijaya Bank had been merged with Bank of Baroda in the year 2019 and the endorsement which has been issued is that there is no such bank would indicate that there is no offence committed by the petitioner since a cheque of a bank not in existence had been presented.

3.1. In this regard, he relies upon the decision of the Hon'ble Andhra Pradesh High Court in the case of ***Ms.Ganta Kavitha Devi vs. The State of Andhra Pradesh and another***[1] more particularly Paras 11 and 12 thereof which are reproduced hereinunder for easy reference:

[1] Crl.P No.8827/2022 dated 25.10.2024

> *11. Admittedly, in the instant case, the subject cheque was issued on 20.09.2021 and the same was drawn on State Bank of Hyderabad. By that date. State Bank of Hyderabad was merged with State Bank of India and the cheques of the said bank were valid till 31.03.2018 only. As per the proviso (a) of Section 138 of N.I.Act. if the cheque itself is invalid, the Bank is bound to dishonour the same. As such, on presentation of the said cheque before ICICI Bank, the same was returned on 22.09.2021 with an endorsement "Invalid cheque (SBH)". Therefore, it can be presumed that the cheque in question was invalid on the date of presentation before the ICICI Bank*
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> *12. In view of the above discussions, the subject cheque, which was issued from the account maintained in erstwhile State Bank of Hyderabad after its merger with State Bank of India, was not a valid cheque on the date of its presentation before the ICICI Bank as required by proviso (a) of Section 138 of N.I.Act. Hence, dishonouring the same will not attract the liability under Section 138 of N.I. Act. Therefore, this Court is of the view that, it is a fit case to exercise the jurisdiction under Section 482 Cr.P.C., for quashing the proceedings against the Petitioner.*

3.2. By relying on ***Ganta Kavita Devi***, his submission is that once a cheque has been issued of a particular bank and the bank had been merged, the cheque would not be a valid cheque and the dishonour thereof would not amount to an offence under Section 138 of the NI Act.

3.3. He also relies upon the decision of the Hon'ble Allahabad High Court in the case of ***Smt.Archana Singh Gautam vs. State of UP and another***[2] more particularly, Para No.11, which is reproduced hereunder for easy reference:

> *11. In view of the above analysis, the cheque in question, which was issued from the account maintained in erstwhile Allahabad Bank after its merger with Indian Bank, was not the valid cheque on the date of presentation before the Indian Bank as required by proviso (a) of Section 138 of NI Act, therefore, dishonouring the same will not attract the liability u/s 138 of N I Act.*

3.4. His submission is that in that case the Allahabad Bank had been merged with Indian Bank and thereafter the said cheque was not a valid cheque and no proceedings could be initiated for dishonour of a cheque in respect of a cheque which is invalid.

3.5. He also relies upon the decision of the Co-ordinate Bench of this Court in the case of ***Savithramma vs. M.S.Ramachandra***[3] **.**dated 11.02.2025, more particularly para 6 thereof, which is reproduced hereunder for easy reference:

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[2] 2024:AHC:102434
[3] Crl.P No.381/2013 dated 11.02.2025

6. *My answer to the above point is in the negative, for the following reasons;*

As per the case of the appellant - complainant, the cheque – Ex.P1 has been issued by the respondent - accused for making payment of the amount borrowed in a sum of Rs.1,00,000/-. The appellant - complainant has presented the said cheque for encashment. The said cheque came to be dishonoured and the bank endorsement is at Ex.P3. On perusal of Ex.P3, the cheque issued by the respondent - accused ie., Ex.P1 has been dishnoured for the reason "bank under liquidation as per R.B.I order from 12.02.2004". The cheque is not dishonoured for want of funds in the account of the respondent - accused. The cheque – Ex.P1 has been dishonoured as the bank in which the respondent – accused is having account on which Ex.P1 – cheque has been issued was under liquidation. The said endorsement that the bank under liquidation does not amount to dishonour of the cheque for want of funds in the account of the respondent - accused. The words used in Section 138 of the N.I.Act for return of the cheque unpaid by the Bank is "either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank." The said words itself would indicate that the said cheque has to be dishonoured for want of funds in the account of the drawer. In the case on hand, the cheque has been dishonoured as the bank under liquidation. The said endorsement does not amount to dishonour of cheque for want of funds in the account of the respondent - accused. Therefore, the offence under Section 138 of the N.I.Act is not attracted. Even though the judgment of acquittal passed by the Appellate Court is on the other grounds / reasons, but considering the above *aspects, there are no grounds for allowing the appeal and convicting the respondent - accused for the offence under Section 138 of the N.I.Act.*

3.6. By relying on the said judgment, he submits that in that case the bank was under liquidation. A cheque having been dishonored on account of the bank being in liquidation would not amount to an offence under Section 138 of the Negotiable Instruments Act.

3.7. On all the above grounds, he submits that the criminal petition is required to be allowed and the proceedings are required to be quashed.

4. Heard the learned counsel for the petitioner and perused papers.

5. The short but important question that would arise for consideration is whether a cheque issued on a bank which is merged with another bank would become invalid requiring a proceedings under Section 138 of the Negotiable Instruments Act to be quashed?

6. It is not in dispute in the present matter that the cheque has been issued on the bank account of the petitioner. The submission of the learned counsel for the petitioner is that the said cheque had been

misplaced as regards which a complaint had been filed. The petitioner having maintained an account with Vijaya Bank, and the cheque relating to the said bank account is not in dispute.

7. Insofar as the allegation that the cheque has been misplaced, that is a matter for trial which is required to be established by the petitioner during the course of trial.

8. Insofar as the contention that the cheque is an invalid cheque and the dishonour memo had been issued indicating that there is no such bank is concerned and the decisions of the Hon'ble Andhra Pradesh High Court and the Allahabad High Court, I am unable to agree with the said decisions. Merely because a bank has merged with another bank would not mean that the cheque has become invalid inasmuch as on the merger of the banks, all the assets and liabilities of the bank which has been merged are taken over by the resultant entity. The bank account maintained by the petitioner with Vijaya Bank gets transferred to the Bank of Baroda which is the resultant entity on account of the said merger. The Bank of Baroda having taken over the bank accounts, the credit standing in the said

accounts and the assets and liabilities of Vijaya Bank, it cannot be said that the account itself has vanished requiring the cheque not to be honoured. The validity of issuance of the cheque is a different matter inasmuch as if the account holder has issued the cheque to a third party who has received the cheque and presented the same, no fault can be found with such person receiving the cheque and presenting it. Strangely, the dishonour memo in the present case indicates that the cheque has been dishonoured for the reason 'no such bank'. Such a dishonour memo could not in the considered opinion of this Court have been issued by the Bank of Baroda to whom the cheque had been presented. If it is at the instructions of Bank of Baroda, it is even worse inasmuch as the Bank of Baroda having taken over the assets and liabilities of Vijaya Bank, it could not have communicated such a reason. If the Vijaya Bank has issued such an endorsement without contacting the Bank of Baroda which is the resultant entity, then the matter is even worse for Bank of Baroda, who could not have issued such an endorsement. Looked at from any angle, a cheque which had been issued on a bank which has merged with another bank cannot become invalid only on account of the said merger. The bank having been merged, the accounts have been taken over by Bank of Baroda, it was for Bank of Baroda to service the said account holders, which would include the petitioner herein.

9. On enquiry as to whether there were amounts in the account of the petitioner in the merged Bank of Baroda, the submission of learned counsel for the petitioner is that the bank account has been closed by the petitioner. If that be so, the cheque having been issued on the said account and the account having been closed will not enure to the benefit of the petitioner in a proceedings under Section 528 of the BNSS. In that view of the matter, reserving liberty to the petitioner to raise all the issues as defence in the pending proceedings, the petition stands ***dismissed***.

Digitally Signed By:
SURAJ GOVINDA RAJ
23/09/2026, 19:16, Bengaluru
Verified

(SURAJ GOVINDARAJ)
JUDGE

PRS
List No.: 1 Sl No.: 35