

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.5684 OF 2019

BETWEEN:

1. M/S. KUMAR ENTERPRISES
NO.25, 9TH CROSS
KUMARA PARK WEST
BENGALURU-560020
A PARTNERSHIP FIRM
REPRESENTED BY ITS PARTNER
R. SHIVAKUMAR.
2. SRI. SHIVAKUMAR R,
AGED ABOUT 64 YEARS
MANAGING PARTNER
M/S. KUMAR ENTERPRISES
NO.25, 9TH CROSS
KUMARA PARK WEST
BENGALURU-560020.

...PETITIONERS

(BY SRI. P.P. HEGDE, SENIOR COUNSEL FOR
SMT. RACHITHA RAJASHEKAR, ADVOCATE)

AND:

M/S. V.S.L. MINING COMPANY PRIVATE LIMITED
NOW CALLED AS A H L MINING COMPANY
PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE
AT HOUSE OF LADS, PALACE ROAD,
SANDUR 583119.
REPRESENTED BY ITS (ALLEGED)
DIRECTOR SRI ANIL LAD

...RESPONDENT

(BY SRI. AKASH V.T., ADVOCATE)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PRIVATE COMPLAINT IN PCR NO.3113/2019 FILED BY THE RESPONDENT NOW PENDING ON THE FILE OF THE HON'BLE IV ADDITIONAL AND XXX A.C.M.M AT BENGALURU AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

This petition is filed praying this Court to quash the private complaint in PCR No.3113/2019 filed by the respondent; quash the order dated 26.06.2019 passed by the IV Additional and XXX ACMM, Bengaluru taking cognizance against the petitioners and quash the proceeding in C.C.No.3471/2019 initiated against the petitioners.

2. Heard the learned counsel appearing for the respective parties.

3. The factual matrix of case of the complainant while filing the complaint under Section 200 of Cr.P.C read with Section 138 of N.I. Act is that accused issued a non-CTS cheque without maintaining balance in the accused account and the cheque was dishonoured for the reason non-CTS cheque

without balance in the account. The cheque amount is Rs.6 crores and the cheque was also issued towards the discharge of the existing liability. The complainant in support of his case, also produced the documents of cheque; endorsement; legal notice; postal receipts and acknowledgement; and reply notice.

4. Having perused the complaint, affidavit and documents produced along with the complaint and so also the documents of Ex.P1 to P8 and sworn statement, the trial court comes to the conclusion that at this stage prima facie constitute the offence under Section 138 of N.I. Act and there is sufficient material to proceed against the accused. Hence, cognizance order was passed by the trial court.

5. The main contention of the counsel appearing for the petitioners in this petition is that cheque cannot be presented to different bank since the cheque belongs to ICICI Bank and cheque is also dated 20.02.2019. Prior to the presentation of the cheque, notices are issued i.e., Annexure-G dated 27.12.2018 and Annexure-H is also very same date and Annexure-J is dated 29.01.2019. The counsel would vehemently contend that a non-CTS cheque was presented to Kotak Bank and the said bank cannot process it. The counsel

also brought to notice of this Court the RBI Circular in respect of CTS and non-CTS cheques are concerned that is only to the particular bank, it has to be presented. The counsel also brought to notice of this court that the said cheque was discontinued and the same was valid till 18.12.2018. The counsel would contend that there is no valid presentation and earlier to that, stop payment was given and before presentation of the cheque, letter was also addressed but in the said letter, nothing is stated about earlier notice and complaint and suppressed the same. The counsel would contend that the court has to take note of the conduct of the respondent/complainant.

6. The counsel in support of his arguments relies upon the judgment reported in **2025 SCC ONLINE SC 641** in the case of **REKHA SHARAD USHIR vs SAPTASHRUNGI MAHILA NAGARI SAHAKARI PATSANSATA LIMITED** wherein the Apex Court discussed in paragraphs 10 and 11 with regard to the suppression of material facts and by making a false statement, cannot seek justice from the court.

7. The counsel also relies upon the judgment reported in **(2001) 3 SCC 609** in the case of **SHRI ISHAR ALLOY STEELS LTD. vs JAYASWALA NECO LTD.** wherein Section 72

of the N.I. Act was discussed that the expression "the bank" occurring in proviso (a) to Section 138 and its meaning was discussed with regard to the presentation of the cheque in a particular bank and brought to notice of this court discussion made in paragraphs 8, 9 and 10.

8. The counsel also relies upon the judgment reported in **(2009) 6 SCC 72** in the case of **RAJ KUMAR KHURANA vs STATE OF (NCT OF DELHI) AND ANOTHER** and brought to notice of this Court paragraph 11 wherein discussed with regard to the legal requirements must be complied with before proceeding.

9. The counsel also relies upon the judgment of this Court passed in **CrI.A.No.1132/2014** decided on **02.02.2024**. The counsel also relies upon judgment of this Court reported in **2026 SCC ONLINE KAR 865** in the case of **ND DEVELOPERS PRIVATE LTD. AND OTHERS vs RITESH RAUSHAN** and brought to notice of this Court the discussion made in the said judgment.

10. The counsel relies upon the judgment passed in **CRL. OP No.13954/2023 AND CRL MP Nos.8584 AND 8585/2023** dated **28.04.2026** wherein the Madras High Court

held that cheque was a non-CTS cheque and as such, it cannot be honoured and hence, the offence under Section 138 of N.I.Act is not attracted.

11. Per contra, the counsel appearing for the respondent would vehemently contend that the payment was made to the tune of Rs.13,05,00,000/-. Though it is contended by the counsel for the petitioners that the cheque was forcibly taken but in the letters dated 27.12.2018 and 29.01.2019, the Annexures which are referred, nowhere stated that the cheque was forcibly taken and it is only an after thought, the said defence was taken. There was no allegation of forcibly taken signature and no complaint was given before the police officers if he really indulged in such act.

12. The counsel also vehemently contend that when this court has entertained the petition in **Crl.P.No.95/2019** decided on **23.09.2023** in the case of **SHIVAKUMAR AND OTHERS vs. STATE OF KARNATAKA**, the said order was challenged before the Apex Court in **Spl. Leave Petition (Criminal) No.49247/2024** and the Apex Court vide order dated **18.08.2025** stayed the impugned order and the same is not yet disposed of on merits. The counsel also in his

arguments would vehemently contend that FAQ on Cheque clearing is concerned, RBI guidelines is also very clear and brought to notice of this Court that in terms of the guidelines No.5 - are non-CTS cheques invalid, categorically held that though it was discontinued with effect from 31.12.2018, as of now, non-CTS cheques cannot be presented in CTS. Bank have been advised to withdraw the non-CTS cheques from the customers. However, a non-CTS cheque continues to be valid as a negotiable instrument.

13. The counsel also relies upon the judgment of this Court in **Crl.P.No.4978/2023** decided on **11.07.2023** wherein similar question was raised that there cannot be 138 proceedings. This Court referring the circular of the Reserve Bank of India held that it holds that non-CTS cheques are valid as a Negotiable Instrument and clarification by the Reserve Bank of India, it is clear that however, though they were discontinued with effect from 31.12.2018, the non-CTS cheques remain to be valid as a negotiable instrument and dismissed the petition wherein similar grounds was also urged.

14. The counsel also relies upon the judgment of Madras High Court passed in **CRL. O.P.(MD) No.14999/2024**

AND CRL.M.P.(MD) Nos.9381 & 9380/2024 dated **11.09.2024**, wherein also in paragraph 4 discussed with regard to the non-CTS cheque. In paragraph 5 held that non CTS cheque was issued only to cheat the defacto complainant when defence was taken. Madras High Court taken note of the judgment of the **State of Haryana and others vs Bhajan Lal and others** reported in **1992 SCC (Cri) 426** and discussed the scope of 482 of C.P.C and so also taken note of the judgment of the Apex Court in the case of **Dr. Dhruvaram Murlidhar Sonar vs The state of Maharashtra and others** reported in **2019 (18) SCC 191** wherein discussion was made with regard to 482 of Cr.P.C is concerned and held that the same has to be exercised sparingly, carefully and with caution. So also, the judgment of the Apex Court in **Kaptan Singh vs the State of Uttar Pradesh and others** reported in **2021 (3) Crimes 247** wherein also held that High Court is not required to go into the merits of the allegation or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and only to take note of the contents of the complaint and prima facie materials. A similar issue was also raised in the very same case that Cheque was not returned for want of sufficient amount and the same was returned only for

the reason of 'non-CTS cheque' and as such, the question of invoking Section 138 does not arise at all. In this judgment is also the very similar issue is involved and dismissed the same.

15. Having considered the contention of the petitioners counsel and also the counsel appearing for the respondent, no doubt, that there were notices exchanged prior to the date of the cheque. Those notices can be made use of by the petitioners during the course of trial, not at the stage of considering the petition under Section 482 of Cr.P.C. The other contention that non-CTS cheque cannot be presented to a different bank. The same will be considered during the course of trial not at this stage. The judgment which has been relied upon by the counsel for the petitioners in the case of **SHRI ISHAR ALLOY STEELS LIMITED** referred supra is the judgment of the year 2001 and no judgment is placed before this court subsequent to the issuance of the circular issued by the RBI and the same was not dealt with by any of the court. But in respect of the non-CTS cheque is concerned, the coordinate bench of this court considered the similar issue in **Crl. P.No.4978/2023** referred supra wherein the very circular was taken note of and held that non-CTS cheque remain to be valid as a negotiable instrument. Though advised to withdraw

the non-CTS cheque as per the RBI guidelines, this court already taken note of the issue of non-CTS cheque and the Madras High Court has also discussed with regard to the non-CTS cheque and held that scope of Section 482 of Cr.P.C is very limited and court cannot consider the grounds which have been urged that notice was already issued and inspite of it, cheque was presented. All these issues could be raised before the trial court at the time of considering the matter on merits. With regard to the presentation of the cheque also, the High Court cannot embark upon considering the matter on merits under Section 482 of Cr.P.C. When such being the case, I do not find any force in the contention of the counsel appearing for the petitioners.

16. The respondent counsel also relied upon the judgment of the Apex Court in **Spl. Leave Petition (Criminal) No.49247/2024** wherein stayed the order of this Court passed in **Crl.P.No.95/2019** referred supra. When the petition was stayed, the same is also pending for consideration. Under the circumstances, I do not find any grounds to entertain the petition invoking Section 482 of Cr.P.C. The grounds which have been urged in the petition could be raised before the trial court and the same will be a defence and those defence cannot

be considered by this court under Section 482 of Cr.P.C and also cannot conduct a mini-trial while dealing with the matter. When cognizance was taken by the trial court, considered the material on record particularly the sworn statement and also the documents which have been relied upon by the complainant. Hence, the petitioners have not made out a ground to entertain this petition.

17. In view of the discussions made above, I pass the following:

ORDER

The petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

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