

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025  
(ARISING OUT OF SLP (CRL.) NO(S).538/2024)

MOHAMMAD ALI

APPELLANT(S)

VERSUS

SHARANAPPA

RESPONDENT(S)

O R D E R

Leave granted.

2. Being aggrieved by the judgment dated 09.10.2023 passed by the High Court of Karnataka-Kalaburagi Bench in Criminal Appeal No.200030 of 2017, the appellant/accused is before this court. By the said judgment, the judgment of acquittal dated 06.01.2017 passed by the I Addl. Civil Judge & J.M.F.C.I Vijaypur in Criminal Case No.2378 of 2013 has been set aside and the appellant has been convicted of the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, "the Act").

3. The operative portion of the impugned judgment reads as under:

"The appeal filed by the complainant is allowed. The impugned judgment and order dated 06.01.2017 passed by the I Additional Civil Judge and JMFC-I, Vijayapura, in C.C.No.2378/2013 is hereby set aside.

The accused is found guilty. Acting under Section 255(2) of Cr.P.C., the accused is convicted for the offence punishable under

Section 138 of the N.I.Act and he is sentenced to pay fine of Rs.10,10,000/- (Rupees Ten Lakhs Ten Thousand only). In default of payment of fine amount, the accused shall undergo simple imprisonment for a period for six months.

Further, acting under Section 357(1)(b) of Cr.P.C., the appellant is entitled for compensation of Rs.10,00,000/- out of Rs.10,10,000/- and remaining cost of Rs.10,000/- shall be remitted to the State as expenses.

Office is directed to furnish a copy of this judgment to the accused forthwith.

Office to return the Trial Court records forthwith. The Trial Court shall secure the accused and issue the conviction warrant accordingly. The respondent/accused shall surrender before the Trial Court forthwith."

4. We have heard learned counsel for the appellant and learned counsel for the respondent and perused the material on record.

5. Learned counsel for the appellant made a twofold submission: firstly, he submitted that the High Court was not right in reversing the judgment and order of acquittal passed by the trial court dated 06.01.2017 and thereby convicting the appellant herein; he contended that the respondent-complainant had not laid the foundational facts so as to prove his case under Section 138 of the Act. Consequently, the trial court rightly did not raise a presumption in favour of the respondent herein as per Sections 118 and 139 of the Act. The High Court has lost sight of this aspect of the case and has instead set aside the judgment and order of acquittal and consequently convicted the appellant herein. He contended that the impugned

judgment of conviction may be set aside and the complaint filed by the respondent-complainant may be rejected/dismissed.

6. He next contended, as an alternative submission, that the High Court was not right in awarding a huge compensation of Rs.10,00,000/- which is 100% of the cheque amount as the same is disproportionate having regard to the facts and circumstances of the case. Therefore, learned counsel for the appellant contended that the award of compensation may be set aside by modifying the impugned judgment and order of conviction.

7. *Per contra*, learned counsel for the respondent-complainant submitted that there is no merit in this appeal; that the trial court was not right in acquitting the appellant herein even in the face of the foundational facts being proved by the respondent herein; the trial court ought to have raised a presumption against the appellant herein inasmuch as the appellant failed to step into the witness box and let in any rebuttal evidence in the matter. He therefore submitted that the High Court was justified in reversing the judgment and order of acquittal of the trial court and convicting the appellant herein. In the circumstances, the contention of the respondent's counsel was that there is no merit in the appeal.

8. We have considered the rival submissions advanced at the bar and we have perused the material on record.

9. We are not inclined to accept the first submission made by the learned counsel for the appellant inasmuch as we find that

even in the absence of any rebuttal evidence, the appellant cannot contend that there was an absence of foundational facts or that the very raising of a presumption under Section 118 read with Section 139 of the Act in favour of the respondent was incorrect. We find that the respondent had not only let in the foundational facts but had proved his case and the High Court therefore, rightly raised the presumption in favour of the respondent and accepted the evidence let in by the respondent herein. In the absence of there being any rebuttal evidence, the High Court was justified in reversing the judgment and order of acquittal passed by the trial court. Consequently, on that score we do not find any reason to interfere in the matter.

10. As far as the second submission of the learned counsel for the appellant is concerned, it was contended that the award of 100% towards compensation being Rs.10,00,000/-, when the cheque amount was also Rs.10,00,000/-, was highly disproportionate and exorbitant as it is an additional amount.

11. In this context, we would refer to the judgment of this Court in R. Vijayan vs. Baby, (2012) 1 SCC 260 in which Section 357 of the Code of Criminal Procedure, 1973 (for short, "CrPC") has been interpreted wherein it has been observed that Section 138 of the Act authorises the learned Magistrate to impose by way of fine an amount which may extend to twice the amount of cheque, with or without imprisonment. In all such cases, where there is a conviction, there should be a consequential levy of

fine of an amount sufficient to cover the cheque amount. There could also be interest on the cheque amount, followed by award of such amount as compensation from the fine amount.

12. In the instant case, the cheque amount was Rs.10,00,000/-. The High Court on conviction of the appellant-accused has imposed a fine only being Rs.10,10,000/- and a default sentence of simple imprisonment for a period of six months. Acting under Section 357(1)(b) of the CrPC, the appellant is ordered to be entitled to Rs.10,00,000/- which is the cheque amount as well as the fine amount as compensation also. There is no separate levy of compensation over and above Rs.10,00,000/- which is the fine amount as well as the cheque amount. The additional amount of Rs.10,000/- has been ordered to be remitted to the State.

13. We do not think that the appellant has been directed to pay a fine of Rs.10,10,000/- and an additional amount of Rs.10,00,000/- towards compensation. Thus, in fact, the respondent has not been paid any amount by way of compensation at all. He is ordered to be entitled to cheque amount of Rs.10,00,000/- and no further amount, not even any compensation or interest on the cheque amount. In the absence of there being any appeal filed by the respondent, we cannot enhance the amount to be paid by the appellant to the respondent.

14. We do not find force in this contention of the learned counsel for the appellant. Award of fine is justified in the case as that is the cheque amount. We do not find any additional amount over and above the cheque amount has been

imposed on the appellant, as compensation. In fact, out of a sum of Rs.10,10,000/- a sum of Rs.10,00,000/- is ordered to be paid to the respondent which is the cheque amount and nothing more and the balance amount of Rs.10,000/- is to be remitted to the State. Consequently, the sentence is not interfered with.

15. At this stage, learned counsel for the appellant has sought for four months' time to pay the amount.

16. Having regard to the prayer made by learned counsel for the appellant, we think that three months' time from today could be granted to the appellant to deposit the cheque amount and fine, failing which the appellant shall undergo the default sentence. The cheque amount shall be paid to the respondent immediately on deposit of the amount.

Pending application(s), if any, shall stand disposed of.

The appeal is hence disposed in the aforesaid terms.

....., J  
(B.V. NAGARATHNA)

....., J  
(K.V. VISWANATHAN)

NEW DELHI;  
JULY 14, 2025

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S).538/2024

[ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 09-10-2023 IN CRLA NO. 200030/2017 PASSED BY THE HIGH COURT OF KARNATAKA AT KALABURAGI]

MOHAMMAD ALI

PETITIONER(S)

VERSUS

SHARANAPPA

RESPONDENT(S)

DATE : 14-07-2025 THIS PETITION WAS CALLED ON FOR HEARING TODAY.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) : Mr. Preetam Shah, Adv.  
Mr. K. Krishna Kumar, AOR

For Respondent(s) : M/S. Dharmaprabhas Law Associates, AOR  
Mr. Chandrashekhar A. Chakalabbi, Adv.  
Mr. S.k Pandey, Adv.  
Mr. Awanish Kumar, Adv.  
Mr. Anshul Rai, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in the aforesaid terms, which is placed on file.

Pending application(s), if any, shall stand disposed of.

(B. LAKSHMI MANIKYA VALLI)  
COURT MASTER (SH)

(DIVYA BABBAR)  
COURT MASTER (NSH)