

**IN THE COURT OF LVII ADDL. CHIEF METROPOLITAN  
MAGISTRATE, MAYO HALL UNIT, BENGALURU**

**-: PRESENT :-**

**PADMA PRASAD, BA (Law), LLB.  
LVII ADDL. CHIEF METROPOLITAN MAGISTRATE,  
BENGALURU.**

**DATED THIS THE 1<sup>ST</sup> DAY OF JUNE, 2018.**

**C.C.No.54622/2015**

**COMPLAINANT : Mr.Nagaraj Kumar, H.K.,**  
S/o. Late M.Krishnappa,  
Aged about 33 years,  
No.1, 1<sup>st</sup> Block, 3<sup>rd</sup> Main,  
Ayyappa Nagara, K.R.Puram,  
Bangalore – 560 036.

**.Vs.**

**ACCUSED : Smt.Gangadevamma,**  
W/o. Nagarajaiah,  
2<sup>nd</sup> Cross, G.P.Rajarathnam Road,  
Saraswathipuram,  
Opp. To SSIT Engg. College,  
Tumkur Town,  
Tumkur.

**Also at**

Smt.Gangadevamma,  
Head Mistress,  
Govt. Higher Primary School,  
Kuri Palya, Tumkur Town  
Tumkur.

**\*\*\*\***

## **J U D G M E N T**

The complainant filed this complaint against the accused for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The complaint case in nutshell is that the accused is his mother-in-law and she has approached the complainant in the 1<sup>st</sup> week of October for a hand loan of Rs.2,42,000/- to meet the marriage expenses of her son Lohit that has been scheduled on 17.11.2014. Accordingly the complainant paid a sum of Rs.2,42,000/- to the accused on 11.10.2014. The accused towards the discharge of said liability has issued 3 cheques bearing No.000051 to 000053 dtd:07.05.2015 for Rs.42,000/- and two cheques Rs.1,00,000/- each drawn on Bank of Baroda, Devasandra Branch. The complainant claims that one cheque issued for Rs.42,000/- bearing No.000051 dtd:07.05.2015 has been encashed but the other 2 cheques bearing No.000052 and 000053 for Rs.1,00,000/- each dtd:07.05.2015 has been bounced for want of funds in the bank account of accused as per bank memos dtd:15.05.2015. Thereafter the complainant caused a legal notice to the accused on 20.05.2015 that has been served to the accused on 21.05.2015. The accused instead of complying with the notice has given untenable reply on 03.06.2015. Hence, the complainant filed this complaint.

3. After filing the complaint, sworn statement of the complainant has been recorded and on perusing the materials on record i.e., cheque, bank endorsement, legal notice and documents for having been caused the notice to the accused, the court has been taken the cognizance of offence and issued summons to the accused.

4. In response to the summons, the accused appeared through his counsel and he was on court bail. Plea has been recorded; accused pleaded not guilty and claimed to be tried.

5. To prove the case, the complainant got examined himself as P.W.1 and got marked documents at Ex.P.1 to P.13.

6. On closure of complainant side evidence, the accused statement has been recorded under Sec.313(1)(b) of Cr.P.C., by placing the incriminating evidence appeared against the accused that are denied by the accused.

7. The accused in support of her case examined herself as D.W.1 and the case made out by her is that there was a serious dispute between her daughter and the accused who is her son-in-law. The accused claims that she has taken a house on lease in the name of her daughter and there was a dispute regarding the lease amount between the complainant and her daughter. The accused also claims that her daughter filed a complaint against the accused for the offence punishable under Sec.498-A of IPC. The accused further claims that on 30.04.2015 her daughter came to her house and on

01.05.2015 at about 1.00 p.m. this complainant came to her house and he was sleeping after the lunch in the house. The accused claims that she has kept a cheque leaves and cash of Rs.1,50,000/- along with one blank stamp paper in almera. Suddenly at 2.00 p.m. the complainant left the house of accused stating that there is some urgency for him. Subsequently it has come to the knowledge of the accused that this complainant has taken away the cash of Rs.1,50,000/- along with signed cheque leaves and stamp paper. The accused claims that she has not lodged the complaint immediately under the impression that the complainant may return the aforesaid amount and cheque leaves but subsequently she came to know that the complainant has encashed Rs.42,000/- by presenting one cheque hence, on 18.05.2015 she has lodged a police complaint and it is also claimed by her that the police have filed 'B' final report in the said case and that has been challenged by her. It is also claimed by the accused that it is not necessary for her to raise a loan of Rs.2,42,000/- as she and her husband were employees and also they are having landed properties etc. The accused also got marked documents at Ex.D.1 to 15 in support of her case.

8. On the basis of above, the point for consideration is that;

**“Whether the complainant has proved that the accused has committed the offence punishable under Sec.138 of Negotiable Instruments Act?”**

9. Heard the arguments and perused the materials on record. On that basis my finding on the above point is in the **"Affirmative"** for the following;

### **REASONS**

10. The specific case of the complainant is that the accused is his mother-in-law and she has approached the complainant in the 1<sup>st</sup> week of October for a hand loan of Rs.2,42,000/- to meet the marriage expenses of her son Lohit that has been scheduled on 17.11.2014. Accordingly the complainant paid a sum of Rs.2,42,000/- to the accused on 11.10.2014. The accused towards the discharge of said liability has issued 3 cheques bearing No.000051 to 000053 dtd:07.05.2015 for Rs.42,000/- and two cheques Rs.1,00,000/- each drawn on Bank of Baroda, Devasandra Branch. The complainant claims that one cheque issued for Rs.42,000/- bearing No.000051 dtd:07.05.2015 has been encashed but the other 2 cheques bearing No.000052 and 000053 for Rs.1,00,000/- each dtd:07.05.2015 has been bounced for want of funds in the bank account of accused as per bank memos dtd:15.05.2015. Thereafter the complainant caused a legal notice to the accused on 20.05.2015 that has been served to the accused on 21.05.2015. The accused instead of complying with the notice has given untenable reply on 03.06.2015. Hence, the complainant filed this complaint.

11. The accused in support of her case examined herself as D.W.1 and the case made out by her is that there was a serious dispute between her daughter and the accused who is her son-in-law. The accused claims that she has taken a house on lease in the name of her daughter and there was a dispute regarding the lease amount between the complainant and her daughter. The accused also claims that her daughter filed a complaint against the accused for the offence punishable under Sec.498-A of IPC. The accused further claims that on 30.04.2015 her daughter came to her house and on 01.05.2015 at about 1.00 p.m. this complainant came to her house and he was sleeping after the lunch in the house. The accused claims that she has kept a cheque leaves and cash of Rs.1,50,000/- along with one blank stamp paper in almera. Suddenly at 2.00 p.m. the complainant left the house of accused stating that there is some urgency for him. Subsequently it has come to the knowledge of the accused that this complainant has taken away the cash of Rs.1,50,000/- along with signed cheque leaves and stamp paper. The accused claims that she has not lodged the complaint immediately under the impression that the complainant may return the aforesaid amount and cheque leaves but subsequently she came to know that the complainant has encashed Rs.42,000/- by presenting one cheque hence, on 18.05.2015 she has lodged a police complaint and it is also claimed by her that the police have filed 'B' final report in the said case and that has been challenged by her. It is also claimed by the accused that it is not necessary for her to raise

a loan of Rs.2,42,000/- as she and her husband were employees and also they are having landed properties etc. The accused also got marked documents at Ex.D.1 to 15 in support of her case.

12. The complainant in support of his case got examined himself as P.W.1 by filing evidence affidavit and also got marked several documents at Ex.P.1 to 13. Ex.P.1 and 2 are two cheques, Ex.P.3 and 4 are two Bank Return Memos, Ex.P.5 is the O/c of the legal notice, Ex.P.6 is the postal acknowledgment, Ex.P.7 is the returned postal cover, Ex.P.8 is the reply notice, Ex.P.9 is the loan agreement, Ex.P.10 is the final report filed by the police on the complaint by the accused. Ex.P.11 is the statement of the daughter of the accused given to the police in Crime No.135/2015, Ex.P.12 is the copy of the protest complaint filed by the accused, Ex.P.13 is the complaint filed by the accused before the Thilak Park PS. The cheque and signature of accused in the cheque is not in dispute. There is also no material on record to show that there was sufficient balance in the bank account of the accused, when that has been presented for encashment. Hence, certainly the initial presumption under Sec.139 of N.I.Act can be drawn in favour of the complainant that the cheques have been issued in favour of the complainant towards the discharge of debt. When the complainant made out a case to draw initial presumption under Sec.139 of N.I.Act, the burden shifts on the accused to prove the contrary to the complaint case and also make out a probable defense and thereby rebut the presumption.

13. The specific defense of the accused is that these cheques Ex.P.1 and 2 have been stolen by the complainant along with one more cheque and cash of Rs.1,50,000/- along with signed blank stamp paper. Before proceeding further in this case it is just and relevant to note the relationship between the complainant and accused. The complainant is the husband of the daughter of accused and their marriage was inter caste marriage. It is also admitted and proved fact that there was dispute between the complainant and his wife who is the daughter of accused. Both the complainant and accused were tried take advantage of the said fact but the scope of this case is limited and the court has to consider only fact in this case is that whether there was any transaction as claimed by the complainant and whether the accused has issued the cheques involved in this case towards the debt or liability.

14. It is the specific case of the complainant in the complaint that in the month of October 2014 the accused approached complainant for a hand loan of Rs.2,42,000/- to meet the marriage expenses of his son Lohit. The said fact is also not seriously disputed and even the admission given by accused/D.W.1 during her cross-examination discloses that she was in need of money in the month of November 2014. The said fact certainly discloses that there is a probability of accused borrowing the loan from the complainant. As already stated above, the complainant and accused are the close relatives. It is the specific defense of the accused that the complainant who is her son-in-law came to her house as on 01.05.2015 at about 1.00 p.m. and

left the house at 2.00 p.m. by taking away the cash of Rs.1,50,000/- along with signed blank cheques and signed blank paper kept in the almirah. Even in the reply notice at Ex.P.8 the accused claimed that the complainant has stolen the cheques. Hence, the burden totally shifts on the accused to prove that these cheques have been stolen by the complainant. It is relevant to note that even according to the accused, she has lodged the complaint regarding the theft of signed blank cheques, cash and blank stamp paper as on 18.05.2015. The accused produced the copy of her complaint at Ex.D.3. The said Ex.D.3 is the complaint lodged to Superintendent of police, Tumkur District by the complainant. The complainant produced the certified copy of the complaint submitted by the accused to the Tihlak Paark PS at Ex.P.13. In both the complaints at Ex.D.3 and Ex.P.13 the accused made out a specific case that on 01.05.2015 this complainant came to the house of accused at Tumkur and he has stolen 3 cheques along with cash of Rs.1,50,000/- along with other allegations that on 26.07.2015 this accused came to the house of accused and quarreled with the accused and others in connection with cheques.

15. The police have conducted the enquiry on the complaint of accused filed at Ex.P.13. After the completion of investigation, the police have submitted the 'B' final report that has been produced by the complainant at Ex.P.10. During the course of investigation the Investigating Officer found that this complainant has not at all visited the house of accused as on 01.05.2015 as well as on 26.07.2015. In

the 'B' final report the Investigating Officer specifically observed that the complainant has filed a police complaint against the complainant in order to avoid the payment of money due to the accused as well as to get the amount advanced by the complainant to obtain the house on lease. In the 'B' final report Ex.P.10 at page No.4, 4<sup>th</sup> paragraph it is specifically observed that;

"ದಿನಾಂಕ:04.11.2015 ರಂದು ಆರೋಪಿತ ನಾಗರಾಜ್ ಕುಮಾರ್‌ರವರು ಉಪಯೋಗಿಸುತ್ತಿದ್ದ 1)9449546516 ಮತ್ತು 2)9880198289 ಮೊಬೈಲ್ ಸಂಖ್ಯೆಗಳ ಸಿ.ಡಿ.ಆರ್ ತುಮಕೂರು ಜಿಲ್ಲಾ ಪೊಲೀಸ್ ಕಛೇರಿಯಿಂದ ಇಮೇಲ್ ಮುಖೇನಾ ಬಂದಿದ್ದು, ಸದರಿ ಆರೋಪಿತ ನಾಗರಾಜ್ ಕುಮಾರ್ ರವರು ಉಪಯೋಗಿಸುತ್ತಿದ್ದ ಮೊಬೈಲ್ ನಂ 9449546516 ಸಂಖ್ಯೆಯ ಸಿ.ಡಿ.ಆರ್ ಅನ್ನು ಪಡೆದು ಪರಿಶೀಲಿಸಲಾಗಿ ಆರೋಪಿತ ನಾಗರಾಜ್ ಕುಮಾರ್ ರವರು ದಿನಾಂಕ:30.04.2015 ರಂದು ವಿಲ್ಸನ್ ಗಾರ್ಡನ್ ಬೆಂಗಳೂರು ನಲ್ಲಿ ಇದ್ದು, ದಿನಾಂಕ:01.05.2015 ರಂದು 11.35 ಗಂಟೆಯಲ್ಲಿ ಕಂಪನಿಯಿಂದ ಮೇಸೇಜ್ ಬಂದಿರುತ್ತೆ, ನಂತರ 13.40 ಗಂಟೆಯಲ್ಲಿ 9836430662 ನಂಬರ್ ನಿಂದ ಆರೋಪಿತನ ನಂಬರ್ ಗೆ ಕರೆ ಬಂದಿರುತ್ತೆ, ಹಾಗೂ 13.48 ಗಂಟೆಯಲ್ಲಿ 7483024138 ನಂಬರ್‌ನಿಂದ ಕರೆ ಬಂದಿರುತ್ತೆ, ಸದರಿ ಮೊಬೈಲ್ ನಂಬರ್‌ಗಳನ್ನು ಆರೋಪಿತನು ಸ್ವೀಕರಿಸಿ Wilson Garden\_3, Ayyappanagar\_6, KR\_Puram\_Market\_2, Vijnapura\_Kasturi\_Nagar\_3

ಬೆಂಗಳೂರುನಲ್ಲಿ ಇದ್ದು ಆರೋಪಿತನು ಇತರೆಯವರೊಂದಿಗೆ ಮಾತನಾಡಿರುತ್ತಾನೆ.”

ನಂತರ ಆರೋಪಿತನು ದಿನಾಂಕ:-26.07.2015 ರಂದು ಸಾಯಂಕಾಲ ಸುಮಾರು 04.00 ಗಂಟೆಯಲ್ಲಿ ಪರ್ಯಾಯದ ಗಂಗದೇವಮ್ಮ ರವರ ಮನೆಗೆ ಬಂದು ಚೆಕ್‌ಗಳ ವಿಚಾರವಾಗಿ ಗಲಾಟೆ ಮಾಡಿ ಅವಾಚ್ಯಶಬ್ದಗಳಿಂದ ಬೈದಿರುತ್ತಾರೆಂದು ಪರ್ಯಾಯದವಿನಲ್ಲಿ ತಿಳಿಸಿದ್ದರಿಂದ ಸದರಿ ದಿನದ ಕಾಲ್ ಡೀಟೈಲ್ಸ್‌ಅನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಆರೋಪಿತನು 17:44:14 ಗಂಟೆಯಲ್ಲಿ 8792371866 ನಂಬರ್‌ಗೆ 564 ಸೆಕೆಂಡ್‌ Bannerghatta\_Mico\_1 ನಲ್ಲಿ ಇದ್ದು ಕೊಂಡು ಮಾತನಾಡಿರುತ್ತಾನೆ. ಆರೋಪಿತನು ಬೆಳಿಗ್ಗೆ 11.00 ಗಂಟೆಯಿಂದ ರಾತ್ರಿ 09.00 ಗಂಟೆಯವರೆಗೆ ಬನ್ನೇರುಘಟ್ಟದಲ್ಲಿ ಇರುತ್ತಾನೆ. ರಾತ್ರಿ 11.00 ಗಂಟೆಗೆ Big Bazar 3 ನಲ್ಲಿ ಇರುತ್ತಾನೆ.

16. The said mobile tower location of the accused clearly discloses that the accused is at Bengaluru and not went to Tumkur and the question of the complainant stealing the cheques of accused as claimed by her as on 01.05.2015 does not arise. This tower location of the complainant and the 'B' final report sufficiently falsifies the defense of the accused. When the defense of the accused has not been proved, the court left with no option to accept the case of the complainant that the cheques have been issued by the accused in his favour towards the discharge of debt.

17. It is relevant to note that the accused not disputed her signature in the cheques. What is the compelling reason for her to keep the signed blank cheques in her house is also without any explanation. If at all this accused, her husband and son were carrying out the business jointly or under partnership, certainly there is some necessity to keep some signed cheques. Absolutely there is no necessity for the accused to keep the signed blank cheques in the house. It is also relevant to note that the accused claims that she has written the amount in the cheques. The accused only disputed the writing of complainant's name in the cheque. Therefore, the amount in the cheque has been mentioned by the accused herself. When the accused herself written the amount in the cheque, why she has not written the name of payee in the cheque is also without any explanation. The accused during the course of cross-examination tried to make out a case that these signed cheques were kept in order to issue the same to her husband and son. For what purpose she intended to give the said cheques to her husband and son is also without any proper explanation. Apart from that, if at all the complainant is sure that she has kept the said signed cheques in order to issue the same to her husband and son certainly she would have mentioned their names in the cheques. In the absence of any such contention, certainly the claim of the accused cannot be accepted.

18. It is also true that this accused has made two allegations against the accused that on 01.05.2015, the accused came to her

house stolen the cheques and cash of Rs.1,50,000/- and on 26.07.2015 the accused came to her house and threatened with dire consequences in connection with cheques. The said allegations made by the accused has been falsified in view of the mobile tower location of the complainant. It is the case of the complainant that even though the complainant has not visited the house of accused on 01.05.2015 and 26.07.2015 this accused made false allegations against the accused. It is the definite claim of the complainant that when he sent a demand notice to the accused after bouncing of cheques, the accused has created the false stories and filed the false complaint against him in order to avoid the repayment of money and harass the complainant. It is true that the cheque has been presented for encashment and bank endorsement has been issued on 15.05.2015, legal notice has been sent on 20.05.2015. The said notice served to the accused on 21.05.2015. The accused has given reply on 03.06.2015. It is relevant to note that though the accused served the notice on 21.05.2015 and sent reply on 03.06.2015, the accused has not filed any immediate complaint against the accused. No explanation given by the accused for not lodging the complaint immediately. According to the evidence of D.W.1/accused she has the knowledge of theft of cheques on the day of theft itself. It is relevant to note that the allegation against the complainant is not only the theft of cheques but also the theft of cash of Rs.1,50,000/- in spite of that no complaint is filed immediately. At least immediately after the receipt of demand notice from the complainant,

the accused would have filed the complaint against the complainant and subsequent to that the complaint has been filed against the complainant. Ex.P.10 and Ex.D.3 complaints are filed on 19.08.2015. Therefore, it is clear that both the complaints have been filed subsequent to the filing of this case. The present complaint has been filed by the accused as on 24.06.2015. As such it is clear that the police complaints filed by the accused against the complainant is an afterthought.

19. The accused also claims that they have provided house to the complainant and her daughter and there was a dispute of lease amount. To substantiate the said fact the accused has not produced any material before the court to show that lease amount has been deposited by the complainant himself. During the course of cross-examination the complainant made out a case that the competent court has given a specific finding that the lease amount has been deposited by the complainant himself but he has not produced any document to substantiate the said fact. However, even the accused has not produced any material to show that the amount has been paid by her to obtain the house on lease. In this context it is useful to refer the 'B' final report submitted by the police at Ex.P.10. At column No.3, it is specifically stated that the complaint has been filed by the accused in order to engulf the cash of Rs.6,00,000/- deposited to obtain the house on lease and also to avoid the repayment of Rs.2,42,000/-. Therefore, the accused has failed to prove the defense taken by her. Even the accused has failed to prove that

Ex.D.1 loan agreement has been created by the complainant. Admittedly according to accused the signed stamp paper has been stolen by the complainant as on 01.05.2015 that has been not proved by the accused. Therefore, it is clear that this accused after obtaining the loan has executed the loan agreement at Ex.D.1. Of course in the mobile photographs produced by the accused discloses that the complainant claimed the repayment of Rs.12,42,000/- but that has not been proved by the complainant and it is relevant to note that it is not the case of the complainant in this case that he is claiming Rs.12,42,000/- from the accused. The specific case of the accused in this case is that he has advanced Rs.2,42,000/- and towards the repayment of said amount the accused has issued 3 cheques out of 3 cheques one cheque issued for Rs.42,000/- has been encashed and other 3 cheques have been dishonoured. Of course the accused has taken several defenses but she has failed to prove her specific defense that the cheques have been stolen as on 01.05.2015. When the accused failed to prove the specific defense, certainly, the case of the complainant has to be accepted. Of course it is undisputed fact that the accused and her husband are the employees and also they are having landed properties but the admission of D.W.1 / accused during her cross-examination discloses that she was in need of money in the month of November 2014. Therefore, it is clear that though the accused and her husband are the Government Employees and they had the landed properties and they are in need of money in the month of November 2014. The

material on record sufficiently discloses that this accused has taken false defenses in the case. Therefore, for the aforesaid reasons this court is of the humble opinion that the complainant proved his case beyond reasonable doubt.

20. In this case, the complainant has claimed compensation. As per Section 357 of Criminal Procedure Code and as per the ruling reported in; **2001 Cri.L.J. 950 (SC), (Pankajbai Nagibai Patel V/s State of Gujarath)**, the court can award compensation and there were no limits for the same. As such, the court has to consider how much compensation could be awarded in this case. As per Section 80 of Negotiable Instruments Act, the interest at 18% P.A. can be granted when there is no agreed rate of interest. As per the proved facts of the case, the accused has issued cheque towards the legally enforceable debt, the accused has issued a cheques dated 07.05.2015 as per Ex.P.1 and 2 and thus, the accused has to pay interest on the cheques amount from the date of cheque and so, the accused has to pay interest for about 3 years till this date. If the interest is calculated at 18% P.A. to the cheques amount for the above period, certainly, the complainant is entitled for the suitable compensation to the cheque amount as per Section 80 of Negotiable Instruments Act. The cheques amount in this case is Rs.2,00,000/- and if the interest is calculated for 36 months, the accused shall pay the interest to the complainant at 18% P.A. that amounts to Rs.1,08,000/-. The case is pending nearly about 3 years as such if the cost of Rs.2,000/- is added to the compensation, it will comes to

Rs.3,10,000/- (Cheque amount is Rs.2,00,000/-, interest is Rs.1,08,000/- and cost Rs.2,000/-). Hence, this court is of the humble opinion that in all the complainant is entitled for compensation amount of Rs.3,10,000/-. Further as per the ruling reported in 2000 Cri.L.J 1793(b) SC – (State of Karnataka V/s Krishnappa) wherein it is held that while imposing sentence, the courts are expected to properly operate sentence system, it should be impose such sentence for code offence which serve as detention of commission of like offences by others – Socio economic status, prestige, race, caste or creed of accused or victim are irrelevant considerations in sentencing policy. Hence, in this case also, if the accused is punished with simple imprisonment for one year and pay compensation to the complainant. Anyhow the object of Sec.138 of N.I.Act is to have accountability in the business transaction and the intention of the complainant is only to get his money back. The complainant certainly not interested in sentencing the accused for any imprisonment. Further, the offence is punishable with imprisonment or fine. Anyhow the object of Sec.138 of N.I.Act is to have accountability in the business transaction and the intention of the complainant is only to get his money back. The complainant certainly not interested in sentencing the accused for any imprisonment. Further, the offence is punishable with imprisonment or fine. Hence, in this case after awarding the compensation certainly imposing of fine to the accused is sufficient sentence.

21. As per the ruling reported in 2002 Cri.L.L. 1003, SC (Suginthi Suresh Kumar V/s Jagadishan). Where in it is held at page no.1005, at para 5 that:

*"In the said decision this court reminded all concerned that it is well to remember the emphasis laid on the need for making liberal use of Section 357(3) of the Code. This was observed by reference to a decisions of this Court in 1988 (4) SCC 551 Hari Singh v. Sukhbir Singh. In the said decision this court held as follows:*

*"The quantum of compensation may be determined by taking into account the nature of crime, the justness of the claim by the victim and the ability of accused to pay. If there are more than one accused they may be asked to pay in equal terms unless their capacity to pay varies considerably. The payment may also very depending upon the acts of each accused. Reasonable period for payment of compensation, if necessary by installments, may also be given. The court may enforce the order by imposing sentence in default."*

22. In view of the aforesaid precedent of Hon'ble Apex Court, if the accused is ordered to further imprisonment of a year in default to pay the compensation will make the ends of justice. Accordingly I answer the above point in "**Affirmative**". In the result, following;

## **ORDER**

Acting under Section 255(2) of Cr.P.C., the accused is hereby convicted for the offence punishable under Sec.138 of N.I.Act and sentenced him to pay a fine of Rs.5,000/-. In default to pay the fine amount the accused shall undergo simple imprisonment for 3 months.

Acting under Section 357 of Cr.P.C., the compensation is awarded and the accused shall pay compensation of Rs.3,10,000/- to the complainant. In default to pay compensation, the accused shall undergo simple imprisonment of a period of 1 year.

Office to furnish free copy of this judgment to the accused forthwith.

*(Dictated to the Stenographer, transcript thereof is corrected and then pronounced by me in the open court on this the **1<sup>st</sup> day of June, 2018**)*

**(PADMA PRASAD),  
LVII ACMM, BENGALURU.**

## **ANNEXURE**

### **1. Witnesses examined on behalf of Complainant:**

P.W.1 : Mr.Nagaraj Kumar H.K.

**2. Documents marked on behalf of complainant:**

- Ex.P.1 & : 2 Cheque  
 Ex.P.2  
 Ex.P.1(a) : Signature of the accused  
 &  
 Ex.P.2(a)  
 Ex.P.3 & : Bank return memo  
 Ex.P.4  
 Ex.P.5 : O/c of the legal notice  
 Ex.P.6 : Postal acknowledgment  
 Ex.P.7 : Un served postal cover  
 Ex.P.7(a) : Un served notice  
 Ex.P.8 : Reply notice  
 Ex.P.9 : Loan agreement  
 Ex.P.10 : Certified copy of the B report submitted by  
 the police  
 Ex.P.10(a) : Signature of the accused  
 Ex.P.11 : Statement of one Smt.Uma  
 Ex.P.12 : Certified copy of the Protest Complaint  
 Ex.P.13 : Certified copy of the complaint filed to the  
 police

**3. Witnesses examined on behalf of Accused:**

- D.W.1 : Smt.Gangadevamma

**4. Documents marked on behalf of Accused:**

- Ex.D.1 : Loan Agreement  
 Ex.D.1(a) : Signatures  
 & (b)  
 Ex.D.2 : Certified copy of the F.I.R.  
 Ex.D.3 : Certified copy of the complaint  
 Ex.D.4 : Acknowledgment issued by the police  
 Ex.D.5 : Certified copy of the order sheet

- Ex.D.6 : Pay-slip  
Ex.D.7 & : RTC  
Ex.D.8  
Ex.D.9 : Pay Slip  
Ex.D.10 : True copy of Form No.2 and 3  
&  
Ex.D.11  
Ex.D.12 : RTC  
Ex.D.13 : Genealogical Tree Affidavit  
Ex.D.14 : Charge sheet and its enclosures  
Ex.D.15 : Application under Sec.65-B of Indian  
Evidence Act.

**(PADMA PRASAD)**  
**LVII ACMM, BENGALURU.**