



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 7TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 200125 OF 2026

(482(Cr.PC)/528(BNSS))

BETWEEN:

UTTAM KUMAR S/O DASHARATH
AGE: 47 YEARS, OCC: PRIVATE WORK
R/O H.NO.10-2-178/29
NEAR S.B.COLLEGE
B. SHYAM SUNDER NAGAR
KALABURAGI-585103

...PETITIONER

(BY SRI. S K BABSHETTY, ADVOCATE)

AND:

MOHAN KUMAR
S/O SHANKAR RATHOD
AGE: 45 YEARS
OCC: AGRICULTURE AND BUSINESS
R/O PLOT NO.44, 3RD PHASE, GDA COLONY
FILTERBED ROAD, KALABURAGI-585101

...RESPONDENT

(BY SRI. MALLINATH ASTAGI, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. (OLD), U/SEC. 528 OF BNSS (NEW), PRAYING TO ALLOW THIS PETITION AND SET-ASIDE THE ORDER DATED 27.11.2025 PASSED BY THE III ADDL. CIVIL JUDGE AND JMFC AT KALABURAGI, IN C.C.NO.354/2024 (P.C.NO.1107/2023).

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





CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

This criminal petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the order dated 27.11.2025 passed in C.C.No.354/2024 (P.C.No.1107/2023) by the III Addl. Civil Judge and JMFC, at Kalaburagi.

2. The brief facts leading to the filing of this petition is that, the respondent-complainant had filed a complaint under Section 138 of N.I.Act and the case was registered in C.C.No.354/2024 on 24.11.2025 on the file of the III Addl. JMFC at Kalaburagi. The summons was issued to the accused. In response, the accused appeared before the trial Court and enlarged on bail. The substance of plea was recorded, the accused pleaded not guilty and claimed to be tried. Thereafter, the evidence of PW.1 has been recorded. The statement under Section 313 Cr.P.C. was recorded and case was posted for defence evidence. The accused/petitioner did not adduce any evidence and



the case was posted for arguments. On 27.11.2025, the petitioner has filed an application under Section 45 of Indian Evidence Act to send Ex.P1 for the experts opinion with regard to the signature on the cheque at Ex.P1(a). The same came to be rejected by the Trial Court on 27.11.2025. Being aggrieved by the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner. Learned counsel for respondent remained absent. No representation made on behalf of the respondent. Hence, argument on behalf of respondent is taken as Nil.

4. On examination of the impugned order, it is clear that the specific defence of the accused is that he has not taken any loan from the complainant and not issued any cheque towards the discharge of alleged loan and the signature at Ex.P1(a) does not belongs to him. Hence, the bank authorities have issued an endorsement "funds insufficient". When the accused has denied the signature on the cheque, the burden lies on the accused to



prove that the signature does not belong to him in view of Section 139 of N.I.Act. Therefore, it is necessary to provide an opportunity to the accused to send this disputed cheque for the expert opinion.

5. On perusal of the application filed under Section 45 of Indian Evidence Act, filed by the accused, the accused has not sought for to verify the disputed signature on the documents pertaining to the admitted signature. Hence it is necessary to direct the Trial Court to secure the specimen signature of the accused given to the concerned bank and thereafter send the disputed signature at Ex.P1(a) to the expert opinion. Accordingly, I proceed to pass the following:

ORDER

- (a) The appeal is ***allowed***.
- (b) The impugned order dated 27.11.2025 passed in C.C.No.354/2024 (P.C.No.1107/2023) by the III Addl. Civil Judge and JMFC, Kalaburagi, is hereby set aside. Consequently, the application filed by



the petitioner/accused under Section 45 of the Indian Evidence Act, is allowed.

- (c) The trial Court is directed to secure the specimen signature of the accused which was given at the time of opening the bank account shown in the disputed cheque and thereafter Trial Court is directed to send the same Hand Writing expert as shown in application along with admitted specimen signature given to the bank.
- (d) The trial Court is also directed to retain the certified copy of the specimen signature of the accused which were given to the bank and also disputed signature at Ex.P1(a) before sending the same to the concerned expert opinion.
- (e) The petitioner shall pay the necessary expenses in this regard.

Registry is directed to send the copy of this order to the Trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**