NC: 2025:KHC-K:2815
CRL.RP No. 200070 of 2020

HC-KAR

**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 3RD DAY OF JUNE, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE V SRISHANANDA**

**CRIMINAL REVISION PETITION NO.200070 OF 2020**

**(397(Cr.PC)/438(BNSS))**

**BETWEEN:**

BALAKRISHNAM RAJU
S/O SUBBARAJU MUDANOORI,
AGE: 38 YEARS, OCC: BUSINESS,
R/O PLOT NO.14, NEAR ADITYA GARDEN,
PRAGATI NAGAR, KUKKATPALLI,
HYDERABAD (AP)-500 072.

...PETITIONER

(BY SRI ASHOK MULAGE, ADVOCATE)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

**AND:**

THE STATE OF KARNATAKA,
THROUGH BRAHMPUR POLICE STATION,
KALABURAGI,
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH, KALABURAGI- 585 107.

...RESPONDENT

(BY SRI VEERANAGOUDA MALIPATIL, HCGP)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 OF CR.P.C PRAYING TO, ALLOW THIS

CRIMINAL REVISION PETITION THEREBY SETTING ASIDE THE IMPUGNED ORDERS DATED 13.11.2018 PASSED BY THE IV ADDL. C.J. AND JMFC, KALABURAGI IN C.C.NO.1482/2009 AND CONFIRMING THE SAME BY THE I ADDL. DISTRICT AND SESSIONS JUDGE, KALABURAGI IN CRL.A.NO.79/2018 DATED 29.07.2020 AND ACQUIT THE REVISION PETITIONER FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 465, 468, 421 AND 420 R/W 120(B) OF IPC.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

**ORAL ORDER**

(PER: HON'BLE MR. JUSTICE V SRISHANANDA)

The second accused in C.C.No.1482/2009, who alone faced trial in respect of the charge sheet filed by the Brahmpur Police Station, Kalaburagi District has been convicted for the offences under Sections 465, 468, 421 and 420 read with Section 120B of IPC, which got confirmed in Criminal Appeal No.79/2018.

2. The gist of the case of the prosecution is that on 14.03.2009, the official of the Vishveshwaraiah Co-operative Bank Limited, Kalaburagi lodged a complaint with the Brahmpur Police Station, Kalaburagi contending that there was misuse of funds of the Bank by issuing fake demand drafts in the name of Sonali Sarees, Hyderabad and documents were also fraudulently prepared in that regard.

3. After registering the case, the police conducted the investigation *inter alia* arrested the present revision petitioner and recovered the money from his account and it was repatriated to the Bank. Despite best efforts, other accused persons could not be secured by the investigating agency. Therefore, filed the charge sheet against the present petitioner showing the remaining accused persons as absconding accused. The revision petitioner faced the trial and after due trial, he was convicted for the aforesaid offences.

4. Being aggrieved by the same, the accused filed an appeal before the District Court in Criminal Appeal No.79/2018.

5. The learned Judge in the First Appellate Court after securing the records, heard the parties in detail and by judgment dated 29.07.2020, dismissed the appeal of the accused and confirmed the order of conviction and sentence.

6. Being further aggrieved by the same, the revision petitioner is before this Court in this revision petition.

7. Sri Ashok B. Mulage, learned counsel for the revision petitioner reiterating the grounds urged in the revision petition vehemently contended that both the Courts have grossly erred in convicting the accused for the aforesaid offences, especially when the other accused persons did not stand for trial, as they were absconding, the proceeds of the demand draft, which was fraudulently

got concocted in the bank has been deposited into his account which has been recovered by the investigating agency. Therefore, no offence whatsoever has been committed by the present petitioner. Hence, conviction of revision petitioner needs to be set aside.

8. Alternatively, Sri Ashok Mulage learned counsel for the revision petition would contend that in the event this Court upheld the order of conviction, taking note of the fact that the present petitioner is in judicial custody for a period of five months, the said period may be treated as the period of imprisonment by setting aside the remaining portion of the imprisonment by enhancing the fine amount reasonably and sought for allowing of the revision petition.

9. *Per contra*, Sri Veeranagouda Malipatil, learned High Court Government Pleader supports the impugned judgments. He would further contend that the loss that has occurred to the Bank is Rs.7,00,000/-.

10. Therefore, no mercy to be shown to the petitioner. He would also contend that merely the other accused persons are absconding, the same would not be a ground to seek any relief before this Court and sought for dismissal of the revision petition in toto.

11. Having heard the arguments of both sides, this Court perused the material on record. On such perusal of the material on record, it is crystal clear that the proceeds of the demand draft were deposited into account of the present revision petitioner. Admittedly, he did not have any source in regard to the amount in his account. Therefore, he should have repaid the same to the Bank. But instead he kept quiet and the amount was recovered after his arrest by the investigating agency. Silence of the petitioner in this regard would make it clear that he was also a party to the conspiracy with the other absconding accused persons.

12. Following the dictum of the Hon'ble Supreme Court in the case of ***Mohd. Khalid Vs State of West***

***Bengal*** reported in ***2002 (7) SCC 334,*** expecting the positive or direct evidence in the matter of criminal conspiracy is totally uncalled for and the Courts are required to infer the role played by the particular accused when criminal conspiracy is alleged.

13. In the case on hand, the very fact that the other accused persons are not available to face the trial, shows the guilty mind of the other accused persons. Present petitioner having been arrested and there is no explanation offered by the present petitioner for the huge amount that was deposited into his account, shows criminal conspiracy which existed in the incident.

14. Thus, the conviction of the accused for the aforesaid offences is just and proper and requires no interference by this Court that too in the revisional jurisdiction.

15. Having said thus, the amount standing in the account of the revision petitioner having been recovered

by the investigating agency and repatriated to the Bank and taking note of the fact that the revision petitioner was already in the custody for a period of five months, the remaining period of the imprisonment ordered by the Trial Court and confirmed by the First Appellate Court needs to be set aside by enhancing the fine amount of Rs.25,000/- which would met the ends of justice.

16. Accordingly, the revision petition needs to be allowed partly. Hence, the following:

**ORDER**

(a) The Revision Petition is allowed in part.

(b) While maintaining the conviction order passed by the Trial Court and confirmed by the First Appellate Court in convicting the accused for the offences punishable under Sections 465, 468, 421 and 420 read with Section 120B of IPC, the custody period already undergone by the revision petitioner is treated as a period of imprisonment by directing the accused/revision

petitioner to pay enhanced fine of Rs.25,000/- on or before 30.06.2025.

(c) Failure to pay enhanced fine amount of Rs.25,000/- on or before 30.06.2025, the order of imprisonment passed by the Trial Court and confirmed by the First Appellate Court stands restored automatically.

(d) Office is directed to return the Trial Court records with a copy of this order forthwith for issuance of modified order.

Sd/-
**(V SRISHANANDA)**
**JUDGE**

RSP
List No.: 1 Sl No.: 76
CT:PK