

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(@ SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 13366/2021)

GANESH SHETTI

APPELLANT(S)

VERSUS

RAJAN CHAUDHRAY

RESPONDENT(S)

O R D E R

1. Delay condoned.
2. Leave granted.
3. Heard learned counsel appearing for the appellant and learned counsel appearing for the respondent.
4. The appellant was convicted by the Trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The conviction was confirmed by the Sessions Court in appeal. By the impugned judgment, the High Court has dismissed the Revision Petition preferred by the appellant for challenging the order of conviction.
5. Paragraph 2 of the impugned judgment, reads thus:-

“ I have heard the learned counsel for the respondent. Learned counsel for the petitioner/accused remained absent. However, revision petition cannot be dismissed for default and it has to be heard and decided on merits. The same is disposed of on merits.”
6. It is not a case that the appellant was repeatedly absent which prevented the High Court from taking up the Criminal Revision Petition for hearing. The Revision Petition was filed by the appellant against the order of conviction.

7. Though, High Court had a power to decide a Revision Petition under Section 401 of the Code of Criminal Procedure, 1973 in absence of the advocate for the revision petitioner, normally, the High Court should avoid adopting the said course when the order under challenge is the order of conviction. The High Court ought have given a reasonable opportunity to enable the appellant to procure presence of his Advocate. The High Court could always appoint a legal aid lawyer to espouse the cause of the appellant. However, that was not done and the High Court has proceeded to decide the Revision Petition against an order of conviction on merits and has dismissed the same.

8. Therefore, we set aside the impugned judgment and order of the High Court and restore the Criminal Revision Petition No. 557 of 2017 to the file of the High Court of Karnataka at Bengaluru. The restored Revision Petition shall be listed before the roster Bench on 28.02.2025 at 10.30A.M., when the parties to this appeal shall remain present. No further notice shall be served by the High Court to the parties.

9. The High court shall fix a date for hearing and shall proceed to decide the Revision Petition, in accordance with law.

10. Learned counsel appearing for respondent states that the respondent has withdrawn a sum of Rs.2,40,000/- (Rupees two lakhs forty thousand only) deposited by the appellant. The withdrawal will be subject to the final outcome of the Revision Petition and the High Court will pass an appropriate order in that behalf, at the time of the disposal of Revision Petition. The amount deposited by the appellant in this Court shall be transferred to the High

Court of Karnataka at Bengaluru. The said amount as well as the amount, if any, lying deposited with the High Court, shall be invested in the interest bearing Fixed Deposit Account in any Nationalized Bank, till the disposal of the Revision Petition.

11. Interim relief which was operative during the pendency of the Revision Petition is also restored.

12. All contentions of the parties are yet to open to be decided by the High Court.

13. The appeal is partly allowed with the above terms.

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

....., J.
(ABHAY S. OKA)

....., J.
(UJJAL BHUYAN)

NEW DELHI;
04th February, 2025.

ITEM NO.5

COURT NO.4

SECTION II-C

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 13366/2021

[Arising out of impugned final judgment and order dated 17-10-2019 in CRLRP No. 557/2017 passed by the High Court of Karnataka at Bengaluru]

GANESH SHETTI

PETITIONER(S)

VERSUS

RAJAN CHAUDHRAY

RESPONDENT(S)

IA No. 72229/2021 - CONDONATION OF DELAY IN FILING
IA No. 72230/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT; IA No. 74505/2021 - EXEMPTION FROM FILING O.T.
IA No. 74502/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 04-02-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Shivam Singh, Adv.
Mr. Amit Bhate, Adv.
Mr. Kailas Bajirao Autade, AOR
Mr. Sunil Kumar Sethi, Adv.
Mr. Shubham Janghu, Adv.

For Respondent(s) Mr. Ashok Bannidinni, AOR
Ms. Betsara Myllemngap, Adv.

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

Delay condoned.

Leave granted.

The appeal is partly allowed in terms of the signed order.

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

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

(Signed order is placed on the file)