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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER , 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 554 OF 2026

BETWEEN:

SRI. ERIGALA RAM PULA REDDY,
S/O BOREDDY,
AGED ABOUT 61 YEARS,
PROPRIETOR OF SRI. LAKSHMI VENKATESHWARA
STONE CRUSHER,
R/AT NO. 2-74, NANDYAL,
KURNOOL DISTRICT,
ANDHRA PRADESH-518 501.
AND ALSO AT
SRI. LAKSHMI VENKATESHWARA STONE CRUSHER,
SITUATED AT SY NO. 66/1,
IN HOSAHUDYA VILLAGE,
BAGEPALLI TALUK, CHIKKABALLAPURA DISTRICT,
KARNATAKA- 561207.

...PETITIONER

(BY SRI JAYAKUMAR S PATIL, SENIOR COUNSEL A/W
SRI ANJANEYA A B, ADVOCATE)

Digitally signed by PRAMILA G V
Location: HIGH COURT OF KARNATAKA

AND:

M/S. GRIND STONE CRUSHER LLP
REGISTERED OFFICE AT NO. 50/1,
2ND CROSS, OPP TO BRINDAVAN COLLEGE,
VINAYAKA LAYOUT, RMV 2ND STAGE,
BHOOPASANDRA, BENGALURU-560094.

REPRESENTED BY ITS PARTNERS,
1. MR. REHAN REFAI,
2. MRS. UMME SALMA,
3. MRS. NEELOFAR BANU,
4. MRS. BIBI SARA

...RESPONDENT

(BY SRI IRSHAD AHMED K,ADVOCATE)

THIS CRL.P FILED U/S 482 CR.PC (FILED U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH THE IMPUGNED ORDERS DATED 23.12.2025 PASSED BY HONBLE REVISION COURT IN CRL.R.P. NO.310/2025 DISPOSED ON THE FILE OF LX ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-61) 61 VIDE ANNEXURE-A AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07TH OCTOBER, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

Heard the learned Senior counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner before this Court is assailing the order dated 23.12.2025 passed in Criminal Revision Petition No.310/2025 on the file of LX Additional Sessions Judge, Bangalore (CCH-61) and also the order dated 25.06.2025 passed in C.C.No.6425/2023 on the file of VII Additional Judge and ACJM Court of Small Causes, Bengaluru (SCCH-3), Bengaluru.

3. In terms of the aforementioned order, the Trial Court has rejected I.A.No.1 filed by the accused in a proceeding

under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') The Sessions Court, in Criminal Revision Petition No. 310/2025, has affirmed the order passed by the Magistrate. Hence, the petitioner is before this Court, assailing the concurrent findings.

4. The respondent in this petition filed a private complaint under Section 138 of the NI Act. To substantiate the claim, the complainant produced Memorandum of Understanding dated 19.09.2021 marked at Exhibit P1. The accused/petitioner raised an objection to the admissibility of the document on the ground that the said document is not adequately stamped as required under the Karnataka Stamp Act, 1957 ('Act, 1957').

5. Accordingly, the petitioner filed an application under Section 58(2) of the Act, 1957 to reject the said document.

6. The Trial Court, on considering the contentions raised by both sides, has held that Exhibit P1 can be considered for collateral purpose and accordingly, rejected the application filed by the accused.

7. It is also noticed that the Trial Court has held that objection was not raised when the document was marked. Further, the Trial Court also took an exception to the manner in which the application is filed, as the application was not supported by an affidavit, and was accompanied by memorandum of facts.

8. The learned Sessions Judge, in terms of the impugned order, rejected the petition filed by the accused and upheld the order of the Magistrate, albeit on different grounds.

9. Learned Sessions Judge took a view that in view of the *proviso* to Section 34 read with Section 58(1) of the Act, 1957, the admission of an instrument in evidence is not barred in criminal proceedings, except in the proceedings under Chapter XII and Chapter XXXVI of the Code of Criminal Procedure, 1973 ('Code, 1973').

10. Learned Sessions Judge has held that the proceedings under Section 138 of NI Act are governed by Sections 262 to 265 of the Code, 1973 covered by Chapter XXI, and as such the objection relating to inadequacy of the stamp cannot be raised in a proceeding under Section 138 of NI Act.

11. Learned Sessions Judge has also relied on the judgment of Co-ordinate Bench of this Court in ***Ravikala H. vs. K.V.Ramamurthy***[1]

12. Learned Senior counsel for the petitioner would submit that the impugned orders are unsustainable. It is urged that if Sections 33 and 34 of the Act, 1957, are read together, would lead to an inevitable conclusion that a document which is insufficiently stamped is inadmissible in evidence and the Trial Court as well as the Revisional Court erred in holding that the document can be admitted in evidence, though it is insufficiently stamped.

13. It is the submission that insufficiency of the document goes to the root of the matter and the defect does not get cured merely because the objection was not raised at the time of marking. Thus, the learned Senior counsel urged that the impugned orders be set aside and the document at Exhibit P1 be held inadmissible in evidence.

14. Learned counsel for the respondent-complainant would submit that Sections 33 and 34 of the Act, 1957 are not applicable to any instrument which is tendered in evidence in

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[1] ***2011 SCC Online KAR 4526***

criminal proceedings other than the proceedings under Chapter XII and Chapter XXXVI of the Code, 1973.

15. It is the submission that the proceedings under Section 138 of the Act, do not fall either under Chapter XII or Chapter XXXVI of the Code, 1973, as such the Revisional Court has rightly held that the document is admissible in evidence.

16. In addition, learned counsel appearing for the respondent would submit that the Co-ordinate Bench of this Court in ***Ravikala H.*** (*supra)* has held that the document, though not sufficiently stamped, can be admitted in evidence in a proceeding under Section 138 of NI Act.

17. Learned Senior counsel appearing for the petitioner by way of reply would submit that the Court has not considered the interplay of Sections 33 and 34 of the Act, 1957 and the judgment rendered without noticing the implication of Section 34 of the Act, 1957 is per incuriam, as such, would contend that the said judgment has no application to the facts of the case.

18. Learned Senior counsel for the petitioner specifically referred to clause (a) of the *proviso* to Section 33 of

the Act, 1957, to urge that the Magistrate or a Judge of a Criminal Court can choose not to examine the sufficiency or otherwise of the stamp duty on the instrument, only if he thinks fit not to examine the issue of stamp duty. Thus, the contention is, there is no absolute discretion conferred on the Magistrate not to examine the sufficiency of the stamp duty in a criminal case, and must assign a valid reason for not examining the question of sufficiency of stamp duty. Since the reasons are not assigned the Magistrate erred in not impounding the document.

19. The Court has considered the contentions raised at the Bar and perused the records.

20. Relevant portion of Sections 33 and 34 of the Karnataka Stamp Act, 1957 reads as under:

> *33.* ***Examination and impounding of instruments.-***
>
> *(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.*

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State of Karnataka when such instrument was executed or first executed:

Provided that,—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) xxx

(3) xxx

(a) xxx

(b) xxx.

34. ***Instruments not duly stamped inadmissible in evidence, etc.-***

No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such

person or by any public officer, unless such instrument is duly stamped:

Provided that,—

(a) any such instrument not being an instrument chargeable with a duty not exceeding fifteen naye paise only, or a mortgage of crop Article 35 (a) of the Schedule chargeable under clauses (a) and (b) of section 3 with a duty of twenty-five naye paise shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, or the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(c) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(d) xxx.

21. On bare perusal of Section 33 (1),(2) and Clause (a) to the proviso referred to above it is evident that the Section 33(1) of the Act, 1957 mandates certain persons to impound the insufficiently stamped document before whom it comes, if such person is of the opinion that the document is insufficiently stamped. Under Section 33(2) of the Act, 1957 such person is required to ascertain whether the instrument is duly stamped when it was executed.

22. However clause (a) of the *proviso* to Section 33(2) confers discretion on the Magistrate or a Judge of a Criminal Court not to examine or impound the document if he thinks fit to do so, in any criminal proceeding not falling under Chapter XII or XXXVI of the Code of Criminal Procedure 1898.

23. Section 33 of the Act, 1957 deals with impounding and examination of the sufficiency of stamp and non-application of the said provision in case clause (a) of the *proviso* to Section 33(2) of the Act, 1957 is attracted. Said Section 33 does not deal with the admissibility or inadmissibility of the insufficiently stamped document.

24. However, Section 34 of the Act, 1957, deals with inadmissibility of the insufficiently stamped document and its admissibility on payment of stamp duty and penalty as the case may be.

25. Now it is necessary to examine Clause (a) of the proviso to Section 33 (2) and Section 34 (c) of the Act, 1957 which are as under.

Clause (a) to Section 33 (2) of the Act, 1957

nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

Section 34 (c) of the Act, 1957

nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

26. From a reading of aforesaid clauses it is noticed that Clause (a) of the proviso confers the discretion on the Magistrate or a Judge not to examine or impound the

insufficiently stamped instrument in a criminal proceeding not falling under certain categories.

27. However, Clause (c) of the Section 34 of the Act, 1957 does not confer any discretion on the Magistrate or the Judge, on the question of admissibility of an insufficiently stamped instrument which is sought to be tendered in evidence.

28. If the case in which the document is tendered in evidence, is not falling under the chapter specifically named in the said clause, then in a criminal proceeding the document is admissible in evidence notwithstanding the fact that it is insufficiently stamped. There is no discretion left to the Magistrate or the Judge trying a criminal case not falling under certain chapters mentioned in Clause(c) to deny the admissibility of an instrument which is not sufficiently stamped.

29. It is relevant to notice that Section 33 deals with impounding of the insufficiently stamped instrument and examination on the sufficiency of stamp on the instrument.

30. The question is whether the two provisions are inconsistent with the each other and does it make either of the provision redundant.

31. The answer is no. Both provisions operate in different fields and serve different purposes. Section 33(1) aims at ascertaining whether the instrument is insufficiently stamped, impounding it if it is so.

32. Section 34 of the Act, 1957 provides for imposing penalty if the insufficiently stamped instrument is sought to be tendered in evidence.

33. Thus, if a document is impounded under Section 33(1) of the Act, 1957, it does not mean that the document is inadmissible in evidence in all circumstances, if the stamp duty and penalty is not paid as required under Section 34 of the Act, 1957. Such instrument is admissible in criminal proceedings other than those falling under the chapters named in clause (a) to proviso to Section 34 of the Act, 1957. In such proceeding, even if the stamp duty or penalty is not paid the document is admissible in evidence.

34. In that event, the Magistrate or the Judge dealing with a criminal case not governed by the chapters specifically named in clause (a) of the proviso to Section 34 may bring the matter to the notice of the competent authority under the Act, 1957, to take steps for recovery of the stamp duty and penalty as provided under the said Act. But such exercise does not make the document inadmissible under Section 34 of the Act, 1957.

35. In the instant case the magistrate has not chosen to impound the document. The ratio laid down in the case of ***Ravikala H.*** can be applied to take a view, that in the facts and circumstances of the case, there is no need to impound the document.

36. Hence, this Court does not find any error in the order passed by the learned Sessions Judge. Though the reasons assigned by the Magistrate may not be correct, the order admitting the document in evidence and refusing to impound the document has to be upheld for the reasons assigned in this order.

37. **CONCLUSIONS:**

(i) Section 34(c) provides for admissibility of insufficiently stamped instrument in a criminal proceeding not falling under the chapter XII or XXXVI of the Code of Criminal Procedure 1898.

(ii) Because of the repeal of the Code, 1898, by the Code of Criminal Procedure, 1973, the corresponding chapters of the Code, 1973 have to be read into Section 33(1) and 34(c) of the Act, 1957. Likewise as the Code, of 1973 has been repealed by Bharatiya Nagarik Suraksha Sanhita 2023, the corresponding chapters of the BNSS-2023 have to be read into Section 33(1) and 34(c) of the Act, 1957.

(iii) In a case where the Magistrate or the Judge by exercising the discretion conferred under clause (a) of the proviso to Section 33(2) of the Act, 1957, chooses to impound the instrument for want of sufficient stamp, even then, in a criminal proceeding not falling under the chapters specifically named in Sections 33 or 34 of the Act, 1957, the document though insufficiently stamped is admissible in evidence.

(iv) In the scenario referred in paragraph (iii) above, the stamp duty or penalty legally leviable can be recovered under Section 46 of the Act, 1957, but payment of stamp duty cannot be a condition precedent to admit the insufficiently stamped document in evidence.

38. Hence, the following:

ORDER

(i) The Criminal Petition is ***dismissed***.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

GVP