



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU  
DATED THIS THE 29<sup>TH</sup> DAY OF SEPTEMBER, 2023  
BEFORE  
THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR  
CRIMINAL PETITION NO. 8973 OF 2023**

**BETWEEN:**

SRI. SHIVARAMEGOWDA D S  
S/O LATE SUBBEGOWDA,  
AGED ABOUT 60 YEARS,  
R/AT DODDAKUNCHE VILLAGE,  
HALEKOTE HOBLI,  
HOLENARSHIPURA TALUK,  
HASSAN DISTRICT-573 201.

...PETITIONER

(BY SRI. JAGADEESH H T, ADVOCATE)

**AND:**

MOHAMMED AJMAL  
S/O MOHAMMED PASHA,  
R/AT JANDALU VILLAGE,  
HALEKOTE HOBLI,  
HOLENARASHIPURA TALUK  
HASSAN-573 201.

...RESPONDENT

(BY V/O DATED 29.9.2023,  
NOTICE TO RESPONDENT IS D/W)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482  
OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO  
QUASHING THE ORDER DATED 30.01.2022 PASSED BY THE  
CIVIL JUDGE AND JMFC AT HOLENARSHIPURA IN  
C.C.NO.60/2019 AND ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,  
THE COURT MADE THE FOLLOWING:



**ORDER**

The petitioner had filed the private complaint under Section 200 of Cr.P.C. for the offence punishable under Section 138 of N.I. Act, alleging that the subject cheque issued by the accused towards legal enforceable debt when presented for realisation was dishonoured for want of funds. The learned Magistrate after recording the sworn statement issued summons to the accused.

2. Service of notice to respondent No.2 is dispensed with.

3. Heard the learned counsel for the petitioner.

4. Initially the complaint was dismissed for want of prosecution and the same was restored by the order passed by the learned Sessions Court. Thereafter when the matter was listed on 28.11.2022 for taking steps for issuing summons, the accused, complainant and his counsel remained absent and the Trial Court left with no option dismissed the complaint for want of prosecution.

5. Initially the complainant had taken steps for issuing summons to the accused. However, the summons was not served by the Police stating paucity of time, and thereafter the complainant remained absent on 19.9.2022 and 28.11.2022 respectively, and the trial court left with no option rightly dismissed the complaint for want of prosecution.



6. However, having regard to the fact that the complainant on earlier occasion had taken steps and summons was not served for want of time, it would be appropriate, if one more opportunity is provided to the petitioner to take steps so as to secure the ends of justice. Accordingly, I pass the following order:

7. The petition is allowed. The impugned order dated 30.01.2022 passed by the Civil Judge and JMFC at Holenarsipura in C.C.No.60/2019 is quashed. Consequently, the complaint is restored to its original file.

8. It is made clear that, if the petitioner-complainant does not take steps for issuing summons to the accused, the learned Magistrate to pass appropriate orders in accordance with law.

**Sd/-**  
**JUDGE**

HR