



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 23RD DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL REVISION PETITION NO. 100019 OF 2025

(397(CR.PC)/438(BNSS))

BETWEEN:

1. SAHADEVAPRASAD URF PRASAD S/O DAHANPRASAD YADAV

AGE. 38 YEARS, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. JAYABHADHAKUMAR S/O DEVANANDPRASAD YADAV

AGE. 32 YEARS, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

...PETITIONERS

(BY SRI. G.S. MOT, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH THE INVESTIGATION OFFICER
VIDYAGIRI POLICE STATION, DHARWAD,
REP BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD BENCH, AT. DHARWAD.

...RESPONDENT

(BY SRI. PRAVEENA Y. DEVAREDDIYAVAR, HCGP)



THIS CRIMINAL REVISION PETITION IS FILED U/SEC.438 R/W 442 OF BNSS, SEEKING TO CALL FOR THE RECORDS AND ALLOW THIS CRIMINAL REVISION PETITION BY SETTING ASIDE THE JUDGMENT OF CONVICTION DATED 19.10.2015 PASSED IN CRL.A NO. 13/2013 PASSED BY THE 4TH ADDITIONAL DISTRICT AND SESSIONS JUDGE, AT DHARWAD BY CONFIRMING THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATD 03.01.2013 IN C.C.NO. 163/2011 PASSED BY THE 3RD ADDITIONAL CIVIL JUDGE (SR.DN) AND CJM, AT DHARWAD, CONVICTING THE PETITIONER FOR THE OFFENCE P/U/SEC. 66(C) OF INFORMATION TECHNOLOGY (AMENDED) ACT 2008 AND U/SEC. 380 R/W 34 OF IPC, 1860 AND ACQUIT THE PETITIONERS FROM THE ABOVE CHARGES.

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

ORAL ORDER

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

Heard Sri.Gouri Shankar Mot, learned counsel for the revision petitioner and Sri.Praveen Y. Devareddyavara, learned High Court Government Pleader for the respondent/State.

2. Petitioners are the accused persons who have been convicted in CC No.163/2011 for the offences punishable under Section 66(c) of the Information Technology Act (hereinafter referred to as 'IT Act') and Section 380 read with Section 34 of Indian Penal Code (hereinafter referred to as 'IPC') and ordered to pay fine of Rs.25,000/- and Rs.5,000/- respectively and to undergo simple imprisonment for a period of three years and two years respectively for the aforesaid offences.



3. Being aggrieved by the same, petitioners approached the First Appellate Court in Crl.A.No.13/2013.

4. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and dismissed the appeal and confirmed the order of conviction and sentence.

5. Being further aggrieved by the same, petitioners are before this Court, in this revision on following grounds:

- *"The Impugned judgments and orders of conviction and sentence passed by the courts below are contrary to law, facts and evidence on record, and as such the same are liable to be set aside.*
- *The reasons assigned by the learned Hon'ble district Judge, while passing the impugned judgment and order of conviction and sentence are erroneous and hence they have slipped into error and proceeded to pass the impugned judgments and orders of conviction and sentence, thereby resulting in substantial miscarriage of justice to the case of the petitioner.*
- *That no test identification parade was conducted wherein the complainant has identified the petitioners and the only time complainant identifies*



the petitioners is during court appearance & before police which is untenable in law.

- *That, there is no bank statement of the complainants to show that there was any unauthorised withdrawal of money from the bank accounts of the complainants. Absence of which is fatal to the case of the prosecution and the petitioners deserve to be enlarged on bail.*
- *That the Spot & Recovery Panchas PW-2 to 4 have not supported the case of the prosecution and have turned hostile. The recovery is not proven hence there are no materials to sustain the judgements passed by the courts below.*
- *That the names of petitioners does not find figure in the complaint & accused are arrested only on the suspicious circumstances after 10 days, there is no nexus between the alleged offence and petitioners.*
- *It is submitted that the sentence Imposed by the courts below is very harsh and as such the sentence passed by the courts below is even otherwise illegal and liable to be set aside.*
- *The appreciation of the evidence by the courts below is illegal, erroneous and unsustainable.*
- *Thus, viewed from any angle, the judgments and orders of conviction and sentence passed by the courts below are even otherwise illegal, erroneous and unsustainable."*



6. Learned counsel for the petitioners reiterating the grounds urged in the revision petition would contend that both the petitioners are innocent and they have been falsely implicated in the case.

7. He would further contend that no ingredients are placed on record by the prosecution to attract the offence under Section 66(c) of the IT Act and there is no material proof that it is the petitioners who have withdrawn the money from the Automated Teller Machine (hereinafter 'ATM' for short) by duplicating the cards belonging to P.W.1, 5 and 6 and sought for allowing the revision petition.

8. Alternatively, learned counsel for the petitioners would contend that in the event, this Court, upholding the order of conviction, the sentence may be reduced by taking note of the fact that it is the isolated incident and petitioners are the first time offenders.

9. Per contra, learned High Court Government Pleader for the respondent/State would support the impugned orders by contending that the allegations leveled against the petitioners are serious in nature inasmuch as they have defrauded the



original card holders by duplicating their card by utilizing the technology and drawn the money from the accounts of P.W.1, 5 and 6 through ATM which shows that they are seasoned thieves.

10. He would further contend that, merely on the ground that the prosecution could not place any other case on record, there cannot be any lenience shown to the petitioners and thus, sought for dismissal of the revision petition.

11. Having heard the arguments of both the parties, this Court, perused the material on record, meticulously.

12. On such perusal of the material on record, it is crystal clear that the conviction order passed by the learned Trial Magistrate confirmed by the First Appellate Court needs no interference inasmuch as there are sufficient materials on record which would conclusively establish that the petitioners did indulge in duplicating the ATM cards belonging to P.W.1, 5 and 6 and thereafter, drawn the money from their respective accounts through the aid of such duplicated ATM cards. They misused the technology to their advantage and stole the passwords of the accounts of P.W.1, 5 and 6 and withdrew the money.



13. Investigation Officer has collected sufficient material which has been discussed specifically in paragraph Nos.13 to 17 of the judgment of the Trial Court.

14. Learned Judge in the First Appellate Court on reappreciation of the material evidence placed on record, found that the material evidence is sufficient enough to maintain the conviction of the petitioners for the offences punishable under Section 66(c) of the IT Act and Section 380 read with Section 34 of IPC.

15. Having said thus, learned Trial Magistrate has taken note of the fact that the petitioners are the first time offenders and petitioner No.1 has a young wife and a two year girl child to maintain and they have cooperated for the early disposal of the criminal case.

16. In fact, a *prima facie* opinion is also formed by the learned Trial Magistrate in her discretion that the petitioners would be entitled for the benefit of the Probation of Offenders Act. But learned Trial Magistrate noted that nature of the offences and the intelligence used by the petitioners in committing the offence would come in the way of exercising the



discretionary power under the Probation of Offenders Act and denied the said benefit to the revision petitioners.

17. Taking note of the same and calling for the opinion from the Probation Officer, at this distance of time, especially when both the petitioners are now residing in Bihar State, eking out their livelihood through employment it would be a futile exercise.

18. Therefore, taking note of the fact that the petitioners were in custody for a period of 41 days which has been given set off by the learned Trial Magistrate between the period of 01.03.2011 to 12.04.2011 and by enhancing the fine amount to Rs.2,00,000/- payable by each of the petitioners, remaining period of sentence stands set aside, ends of justice would be met in the facts and circumstances of the case.

19. It is to be noted that every sinner has a future and criminal justice system should hate the crime and not the criminal.

20. Taking note of these aspects of the matter, imposing additional fine amount of Rs.2,00,000/- to each of the petitioners and portion of which can be paid as compensation to P.W.1, 5



and 6 would serve the ends of justice better in the case on hand instead of directing the petitioners to undergo remaining period of sentence.

21. Accordingly, following:

ORDER

- i. Revision petition is ***allowed in part.***
- ii. While maintaining the conviction of the accused persons for the offences punishable under Section 66(c) of the Information Technology Act and Section 380 read with Section 34 of Indian Penal Code, custody period already undergone by the petitioners from 01.03.2011 to 12.04.2011 is treated as period of imprisonment by enhancing the fine amount to Rs.2,00,000/- each payable on or before 20.02.2026 before the Trial Court failing which the petitioners shall surrender for serving remaining period of sentence ordered by the learned Trial Magistrate confirmed by the First Appellate Court.



- iii. Out of the fine amount recovered, sum of Rs.50,000/-, Rs.50,000/- and Rs.25,000/- is ordered to be paid as compensation to P.W.1, 5 and 6 respectively taking note of the financial loss suffered by them in the incident.
- iv. Balance fine amount shall be appropriated towards the defraying expenses of the State.
- v. Office is directed to return the Trial Court Records with copy of this order forthwith for passing modified conviction warrant.
- vi. In view of disposal of the main matter, I.A.No.2/2025 stands ***disposed of***.

Sd/-
(V.SRISHANANDA)
JUDGE

KAV
CT-CMU
LIST NO.: 2 SL NO.: 6