

05.10.2023

Court Proceeding through Video conferencing using CISCO Webex.

This court has a pendency of more than 8100 cases and dates are being given as per the roster.

Present:- Sh. Rahul Pandey, proxy counsel for the complainant.

The matter was listed for consideration/ arguments on summoning.

Proxy counsel for the complainant submits that he has filed the original complaint and all the annexed documents with the Reader cum Ahlmad of this court. Reader cum Ahlmad has also confirmed the same. Reader cum Ahlmad is directed to verify the same with the digital file and keep the original complaint and all the annexed documents in safe custody.

Arguments on the point of summoning heard. During the course of the arguments, Ld. counsel for the complainant submits that he wishes to drop proposed accused no. 2 and 3 from the memo of parties and further submits that the case may be proceeded only against proposed accused no. 1 who is the drawer of the cheque. Perusal of the cheque in question prima facie denotes that the cheque has been drawn by proposed accused no.1. Accordingly, no case is made out against proposed accused no. 2 and 3 and thus they are dropped from the memo of parties. Complainant is directed to file an amended memo of parties before NDOH.

The present complaint has been filed u/s 138 of Negotiable Instruments Act, 1881. Complaint, affidavit of evidence and other documents annexed with it perused. The complaint is within limitation and within the jurisdiction of this court. In terms of inquiry conducted u/s 202 Cr. P.C, all the statutory requirements have been complied with. Prima facie, there is sufficient material on record to proceed further with the matter. Accordingly, this court takes cognizance of the said offence punishable u/s 138 N.I. Act.

Following the law laid down in **A.C. Narayanan Vs. State of Maharashtra (2014) 11 SCC 790**, complaint, affidavit of evidence and other annexed documents considered. Accordingly, there is no need to examine the complainant for the purpose of issuance of process. After perusal of the entire record, the court is of the considered opinion that there are sufficient grounds for proceeding against accused **Devender Kumar** for the commission of offence under Section 138, Negotiable Instruments Act, 1881.

Accordingly, let summons be issued to accused **Devender Kumar** through speed post/approved courier on filing of PF, RC for **08.05.2024**. PF, RC to be filed within 30 days from today. Service of E-summons be also affected through Email and Whatsapp provided the complainant files an affidavit to the effect that email ID and whatsapp number on which the said message(s) is /are sent is of the accused person and further subject to filing of the report of service. Proof of service/tracking report be filed and updated on the digital file on or before next date of hearing. The process server is also directed that in the event of non-availability of the accused or house/office/premises is found to be locked or accused refuses to accept the service, the process be served through affixation.

Complainant is directed to supply the copy of complete set of documents filed in the court including the evidence affidavit of the complainant. Ld. Counsel for the complainant is also directed to file the duly filled mandatory NI Act Complaint Meta Data Form before filing first PF.

Reader cum Ahlmad is directed to make an endorsement on the summons that if the accused makes an application for compounding of offence at the first or second hearing, the Court may pass appropriate orders at the earliest as per the judgment of the Hon'ble Supreme Court in **Meters and Instruments Pvt. Ltd. v. Kanchan Mehta (2018) 1 SCC 560** and if settlement is made at a subsequent state, the consequences as envisaged in **Damodar S. Prabhu vs Sayed Babalal (2010) 5 SCC 663** shall be enforced.

The Reader cum Ahlmad is also directed to mention the official e-mail id and video conferencing link of this court on the summons. The Reader cum Ahlmad is directed to send the copy of e-summons along with the copy of the digital case file to the Nazarat Branch to effect service of e-summons via Email and Whatsapp. Nazarat Branch is directed to file report regarding service of summons before the NDOH.

Accused is directed to appear before this court through video conferencing on Cisco Webex application through the permanent Cisco WebexVC Room ID <https://districtcourtdwarka.webex.com/meet/MMNIActDigitalCourt05>

Put up for appearance of accused/furnishing of bail/consideration on notice on **08.05.2024**.

(DEEKSHA RAO)
MM (NI Act) DIGITAL COURT-05,
South West, Dwarka Courts, New Delhi
05.10.2023