

66 CC NI ACT / 61618/2024
PRAKASH KAUR Vs. SHAKTI SEHGAL

13.01.2025

Present: Ms. Daizy Sharma, Ld. Counsel for complainant.
Complainant is stated to be on the way.

Amended complaint and amended Memo of parties has been filed. Taken on record.

Ld. Counsel for complainant submits that accused No.1 is company. Accused no.2 is signatory to cheque in question. No active role has been attributed to accused No.3. Accordingly the cognizance qua accused No.3 is declined.

This is complaint filed for offence punishable under Section 138 NI Act. Complaint, affidavit of evidence and other annexed documents perused. **I take cognizance of offence punishable under Section 138 NI Act.**

Complainant has tendered on record his evidence by way of affidavit. Pre summoning evidence is led. The complainant has also closed his preliminary evidence.

Arguments on summoning heard.

I have gone through the entire record including the complaint and the documents. It is alleged that accused has issued the cheque in question to the complainant to discharge his liability. On its presentation the same was dishonored. Therefore, demand notice was sent to the accused by the complainant. Despite service/deemed service of said notice, accused has failed to make the payment as per provisions of Negotiable Instrument Act.

Complaint is filed within the prescribed period of

limitation. In my considered opinion, prima facie there is sufficient material available on record to summon the accused.

Hence, accused No.1 and 2 only be summoned for offence u/s 138 Negotiable Instrument Act on filing of PF/RC. In the event, the house/office/premises is found to be locked/refusal to accept the service/any other contingency the process be served through affixation. PF be filed within 14 working days from today. Matter be taken up now on 07.04.2025. The complainant can provide email address/mobile number of accused person(s), if any for service. The service of summons through what's app message(s) and text message(s) is also permitted provided the complainant files an affidavit to the effect that number on which the said message(s) are sent is/are of the accused person(s) and further subject to filing of report of service. Complainant is at liberty to take steps for dasti service of accused.

As per the guidelines laid down as in the case titled as “*Damodar S.Prabhu vs. Sayed Babalal H*” AIR 2010 (SC) 1907, Ahlmad is directed to make a mention on the summons issued against the accused (by adding separate sheet, if required) that “accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the court without imposing any cost on the accused”.

(SHIVANGI MANGLA)
JM, 1st Class (NI Act)-05
South-West District/Dwarka Courts
New Delhi/13.01.2025