

Subhash Anand VS Beant Singh etc.

Present: Sh. J.K.Agnihotri, Advocate counsel for complainant.

CW1 Subhash Anand is present and examined as CW-1 in preliminary evidence and he closed the same.

2. Arguments on the point of summoning heard. The complainant has filed the present complaint under section 138 of the Negotiable Instrument Act against the accused on the allegations that in order to discharge his liability, accused issued cheque bearing No.282513 dated 01.02.2024 for ₹ 1,86,000/- with assurance that the same will be honoured on presentation. But, when the complainant presented same with his banker for encashment of the same, the said cheque was dishonoured vide memo of the bank with the remarks "**Funds Insufficient**". The complainant served a legal notice calling upon the accused to make the payment of the cheque amount, but the accused failed to make the payment.

3. **The complainant examined himself as CW-1 and tendered his sworn affidavit Ex.CW1/A** and deposed that the cheque in question was issued by the accused in order to discharge his liability and further that when he presented the same with his banker the said cheque was dishonoured with the remarks "**Funds Insufficient**". He also proved on record Cheque dated 01.02.2024 as Ex.C1, bank memos dated 03.02.2024 and 26.03.2024 as C2 and Ex.C3, legal notice dated 24.04.2024 as Ex.C4, postal receipts as Ex.C5 and attested copy of lease and licence agreement as Ex.C6. The complainant has been able to show prima facie that cheque in question was issued by the accused and the same was dis-honoured with the remarks "**Funds Insufficient**" and further the complainant has proved the legal notice calling upon the accused to make the payment of the cheque amount but the accused has failed to make the payment of the disputed amount.

4. Keeping in view the argument advanced by the ld. counsel for the complainant and preliminary evidence on record as the complainant has been able to show prima facie case against the accused

under section 138 of the Negotiable Instrument Act and as such sufficient grounds are there for proceeding further against the accused accordingly. Therefore the accused is ordered to be summoned under section 138 of the Negotiable Instrument Act on filing of requisite process fee/RC/through speed post, copy of complaint and list of witnesses for **07.08.2024**. Dasti summons be given under rules.

Special summons be issued to the accused directing him and giving him an opportunity to pay the cheque amount in the Court either in person or through his authorized representative or through money order or demand draft within a period of 15 days from the date of receipt of these summons or after their appearance in the Court by moving an application in this regard to compound the offence by paying the cheque amount in terms of the directions of *Honourable Supreme Court in Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663*.

Pronounced in open Court:

Dated: 12.06.2024

Pankaj Singh

(Sukhwinder Singh)

Sub Divisional Judicial Magistrate,
Balachaur.
(UID PB-0332)