

IN THE COURT OF MISS. KIRAN KUMARI
JUDICIAL MAGISTRATE, 1st CLASS

SUB-DIVISION- BALLIA

DISTRICT- BEGUSARAI

Complaint Case No- 437 /2025

Brajraj Paswan-- Complainant,

Vrs,

Santosh Kumar@ Santoshi Kumari-- Accused Person,

DATE OF ORDER	<u>ORDER with Signature of P.O.</u>	Action taken
<u>03-07-25-</u>	The complainant has file this complain U/s 223 of the CrPC seeking cognizance of an offence U/s 138 of the Negotiable Instrument Act, 1881 (Hereinafter referred as "The NI Act") It is alleged that accused has issued a cheque bearing no- 753889 dated-28.02.2025 drawn on 28-02-2025 S.B.I Bank, Branch-Lakhminia Bazar for a sum of Rs. 2,00,000/- (Two Lakhs Only.) in discharge of the legally enforceable debt or liability. The said cheque was presented by the complainant within its validity period, but it was dishonor on presentation by the bank with the endorsement " Payment stopped by drawer" on dated 06.03.2025. Thereafter the complaint issued a statutory legal notice under section 138(b) of the N.I Act on 21.03.2025 through register post demanding payment of the cheque amount within 15 days of the receipt of the notice. The said notice was duly served upon the accused, but despite receipt the accused failed to make the payment within the stipulated time. The complainant has filed withing the prescribed limitation period as contemplated under section 142 clause 2 of the N.I Act. The complainant has filed the original cheque, return memo, legal notice, postal receipt and acknowledgement which substantiate the basis ingredients required Under section 138 of the N.I Act. In K Bhaskaran V. Sankaran Vaidhyan Balan & anr., (1999) 7 SCC 510, The Hon. Supreme Court laid down the five components constituting the offence under section 138 of the	

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NI Act-

1. Drawing of cheque.
2. Presentation of cheque to the bank,
3. Return of cheque unpaid,
4. Giving of notice to drawer of cheque, and
5. Failure of the drawer to make payment within 15 days.

In the present case, all the ingredients appears to be prima facie fulfilled.

Further, in **Subodh S. Salaskar V. Jayprakash M. Shah & anr, (2008) 13 SCC 689**: The Hon'ble Supreme Court held that once the complainant proves that the cheque was issued in discharged of a legally enforceable liability, the presumption U/s- 139 of the N.I Act operates in favor of the complainant.

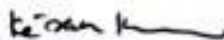
Thus, this court is of the considered opinion that a prima facie case is made out against the accused Santosh Kumar@ Santoshi Kumar for the offence punishable U/s 138 of the N.I Act.

Cognizance is hereby taken for the offence punishable U/s 138 of the Negotiable Instrument Act, 1881.

The office clerk is directed to issue summons U/s 227 of the B.N.SS against the above named accused persons, if requisite filed by the complainant. The complainant is directed to file requisite.

Put up on 30-07-25 for filing of requisites.

Dictated,



(Kiran Kumari)
Judicial Magistrate 1st class
Ballia, Begusarai.