

IN THE COURT OF SHRI ANKIT RAJAN, J.M. 1ST CLASS- CUM- A.M. II

WEST CHAMPARAN AT BETTIAH

Complaint No. – 1788 ©/ 2019, C.I.S. - Cri (P) 1775/2019

Irshad Aalam Vs Md. Israil

DATE OF ORDER	ORDER WITH SIGNATURE OF THE MAGISTRATE	REMARKS
1	2	3

04/08/2022	Today, the case record is put up before this court for hearing and order on the point of summoning after completion of Inquiry. Complainant is absent today but is duly represented by his Ld. Advocate. Upon perusal of record it appears that this complaint case has been filed by Irshad Aalam s/o Ali Imam r/o Narkatiaganj Ward no. 16 Road no. 02 P.S. Shikarpur Distt. West Champaran (hereinafter referred as the complainant) against Md. Israil s/o Md. Yusuf r/o Damariya P.O. Anisabad P.S. Gardanibagh, Distt. Patna in the complaint petition for the commission of offences punishable u/s 406, 420 of I.P.C. (hereinafter referred to as I.P.C.) & and section 138 of Negotiable Instruments Act (hereinafter referred as N.I. Act). The learned C.J.M took cognizance of the offence and made over this complaint petition for further inquiry under section 192(1) of the Cr.P.C and disposal as per law on 08/11/2019. During the course of inquiry, the complainant got himself examined on oath under section 200 of this Cr.P.C on 16/01/2020 and also produced 2 enquiry witness namely 1. Rohit Kumar s/o Raju Prasad on 28/02/2020 and 2. Md. Afroz s/o Nikki Ahmad on 13/03/2020 (hereinafter referred to as EW1 and EW2 respectively) who were examined on oath as under section 202 of the Cr.P.C. The complainant had also filed certain documents for perusal on 08/06/2022. <u>Appearance of evidence</u> On careful perusal of the record the court finds and accordingly holds that a prima facie case is made out u/s 138 of N.I. Act against the accused. The ingredients of the offence as contemplated u/s 138 of the N.I. Act are as under: 1. <i>The cheque must have been drawn to discharge an existing</i>	
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	<i>debt or liability (cheque was drawn on 28/06/2019).</i> <i>Cheque must be presented on within 3 months or within period whichever is earlier. (Cheque was presented on 15/09/2019).</i> <i>Cheque must be returned unpaid due to no fault of the presenter (cheque returned to the complainant on 15/09/2019).</i> <i>Fact of dishonour is informed to the drawer by notice within 30 days (a legal notice was sent on 30/09/2019).</i> <i>Drawer of the cheque must fail to make the payment within 15 days of receipt of the notice. (Cheque amount unpaid till now).</i> <i>A complaint is made in writing by the payee or holder of cheque in due course within a period of one month from the date of cause of action accrues to such payee or holder under clause © of proviso to section 138. (A criminal complaint in writing was instituted on 08/11/2019).</i> Thus, all the ingredients of the section 138 of N.I. Act are hereby fulfilled. Further, all the witnesses have also supported the complainant's case. <u>ORDER</u> This court is of the opinion that prima facie case of offence punishable u/s 138 of N.I. Act is made out against the accused person namely Md. Israil The complainant is directed to file requisites within 14 days for issuance of summons. The o/c is directed to issue summons to the accused after filing of requisites. Put up on 04/09/2022 for appearance of the accused. Dictated (Ankit Rajan) J.M. 1ST First Class- Cum – A.M. II	
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