

**HDFC BANK LTD. VS. \_\_\_\_\_**

Present: Sh.H.S.Kathpal Counsel for complainant.

Fresh complaint **under Section 25 of The Payment and Settlement Systems Act 2007** received. It be checked and registered. Let pre-cognizance notice affording opportunity of being heard to respondent/accused be issued under proviso to **Section 223(1) of BNSS, 2023** for **19.09.2025**. As held in three Judge bench decision by Hon'ble Supreme Court in **Jamuna Singh and others Versus Bhadai Shah (Criminal Appeal No.56 of 1960, decided on 04.10.1963)**, the moment court records statement of complainant in a complaint case, it amounts to taking cognizance. Therefore, at this stage, statement of complainant or his witness cannot be recorded. This view is reiterated in **CREF Finance Ltd Versus Shree Shanthi Homes Pvt Ltd & Anr (Criminal Appeal No.1063 of 2005 (Arising out of SLP (Crl.) No.320/20050 decided on 23.08.2005 and in State of Karnataka & Anr. Versus Pastor P.Raju (Criminal Appeal no.814 of 2006 (Arising our of Special Leave Petition (Crl.) No.5450 of 2005), decided on 04.08.2006)**.

It is however, made clear that this notice under proviso to 223(1) BNSS 2023 is not to be treated as summons and respondent/accused is entitled to appear either in person or through counsel. The question of his being ordered to put in personal appearance and obtain bail would arise only after summoning order is passed.

In case, respondent/accused fails to appear after service of notice, taking of cognizance of offence **under Section 25 of The Payment and Settlement Systems Act 2007** shall be considered in absentia. Accordingly, let notice be issued to respondent for **19.09.2025** through ordinary process as well as through RC/A or through BNPL services.

Date of Order : 23.07.2025.  
Usha Kalra, Stenographer

Jasbeer Singh  
Judicial Magistrate Ist Class  
UID No.PB0490/CHD