

_____VS_____

Present: Learned counsel for the complainant

Fresh complaint 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 **18.11.2025**. 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 out 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 138 of NI Act shall be considered *in absentia* . Accordingly, let notice be issued to respondent for **18.11.2025** through ordinary process as well as through RC/A or through BNPL services.

Date of Order: 21.08.2025
Shalini, Steno-III*

(Ms. Jaspreet Kaur)
Judicial Magistrate Ist Class,
Chandigarh
UID No . PB00657