

Tata Capital Ltd. Vs. _____

Present: Sh.Puneet Bhatia, counsel for complainant.

Fresh complaint received. It be checked and registered. **CW-1** is present and has tendered affidavit **Ex.CA** into evidence along with documents **Ex.C1/CW1 to Ex.C6/CW1** and closed preliminary evidence. Heard.

In support of his complaint, learned counsel for the complainant submitted that the accused has issued the cheque **Ex. C2/CW1** in order to discharge his legally enforceable debt, which when presented for encashment were received back dishonoured vide cheque returning memo as **Ex.C3/CW1**. Thereafter, the complainant served a legal notice as **Ex.C4/CW1** through registered post demanding the payment of cheque amount but the accused failed to repay the cheque amount within stipulated time period.

In view of submissions of learned counsel for the complainant and the documentary evidence on record, this Court is of the considered view that the complainant presented the cheque in question for its encashment within the period of its validity. Within the period of 30 days of receipt of information from the bank regarding return of cheque as unpaid, the complainant served a legal notice demanding the payment of cheque amount through registered post. After expiry of 15 days from the receipt of legal notice by accused but before expiry of 30 days thereafter, the instant complaint has been filed by the complainant, which is thus within the period of limitation.

In view of the facts and circumstances of the instant case and dictum of settled legal position, this Court is of the considered view that in totality and with greatest circumspection that there is a force in the line of the reasoning adopted by the counsel for the complainant as it prima facie transpires from the averments of complaint, affidavit and documents on record that there is “**sufficient material**” to issue process against the accused in consonance with the provision of law as contained under the Section 138 of Negotiable Instruments Act, 1891.

Furthermore, the detailed expression of opinion is avoided as it is no longer necessary in view of the law laid down by Hon’ble Supreme Court in case cited as “**UP Pollution Board Vs. Mohan Meaken Ltd. 2002(2) RCR (Criminal) 421**” and “**Deputy Chief Controller of Imports and Exports Vs. Roshan Lal Aggarwal 2003 (2) RCR (Criminal) 110**”.

Accordingly, notices/process/summons be issued to the accused for the alleged commission of offence as contained under the provision of Section 138 of Negotiable Instrument Act, 1881 simultaneously through **ordinary process or on filing of RC/AD or through BNPL services for 09.08.2024** on filing copy of complaint, list of witnesses etc., forthwith and positively within 7 days, failing which complainant cannot seek any assistance from the court. In addition to above, **Dasti Summon/notice/process may also be given, if desired.**

Date of order: 13.03.2024
Sandeep Kumar/Stenographer Gr.II

Tarun Kumar
Judicial Magistrate Ist Class ,
Chandigarh/(UID No. PB0631)