

CC No.1337/2022
MUTHOOT FINANCE LTD. Vs. MOHITVIMAL
08.03.2022

Proceedings conducted through video conferencing via Cisco Webex App.

Matter taken up through Video Conferencing as per office order of Hon'ble Delhi High Court as per order no. 4/7/RG/DHC/2020 dated 27.08.2020.

Present: Mr. Dig Vijay Singh, Ld. Counsel for complainant.

Ld. Counsel for complainant submits that he has deposited all the original documents in compliance of the previous order. The same is verified by Reader-cum-Ahlmad. The Reader-cum-Ahlmad is directed to keep the original in safe custody.

Record of the file perused. All the statutory requirements under NI Act are complied with. The present complaint case is filed within limitation. After perusal of the entire record, this court is of the considered opinion that prima facie case punishable u/s 138 of NI Act is made out against the accused.

I take cognizance of the said offence.

Arguments heard on the point of summoning. Following the law laid down in **A.C Narayanan Vs. State of Maharashtra & Anr. (2014) 11SCC 790**, complaint, affidavit of evidence and documents considered. In view of complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused person for offence punishable under Section 138 NI Act.

Let summons be issued to the accused for being the drawer of the

cheque on filing of PF/RC/AD/speed post as well as through all permissible modes returnable on 26.05.2022. Summons be issued to accused as per the address mentioned in the complaint. Service is directed to be effected on the physical address as well as virtual address of the accused.

Directions for the complainant:

Complainant is directed to file PF and take steps within 15 days including providing copies of complaint and related documents. Complainant is directed to file the process fee and postal envelopes physically, mentioning the details of the case etc. for issuance of summons to the accused. Readercum-Ahlmad is directed to issue the summons **only after ensuring that the same has been done. The complainant is also apprised of the fact that at the time of filing first PF, he is required to fill the mandatory NI Act Complaint Meta Data. Complainant is also directed to be present on NDOH through Video conferencing.**

If the accused could not be served in view of the provisions contained in Sections 62, 63 and 64 of Cr. P. C, then process server is directed to serve the summons by way of affixation as per Section 65 of Cr. P.C and to file his report accordingly. If summons is served by way of affixation, a photograph of the affixed summons and the place where it is affixed be also filed.

Service may also be effected on the email as well as Whatsapp messages and/or text message of accused persons. Proof of service/tracking report be filed and updated in the digital file on or before the next date of hearing. The complainant can provide an affidavit verifying mobile number and email address of accused persons, if any for service. The Service of summons through whatsapp messages and text messages is permitted subject to filing of report of service.

Directions for Reader-cum-Ahlmad :

1. Reader-cum-Ahlmad is directed to **send the e-copy of summons** along with the e-

copy of the digital case file and a copy of this order to the Nazarat Branch for service through email. **Nazarat Branch** is directed to file report regarding service of summons through e-mail before the NDOH.

2. **Mention the following text** as it is on the summons issued to the accused (by adding separate sheet, if required):

“As per the guidelines laid down as in the case titled as **Damodar S.Prabhu Vs. Sayed Babalal H, (2010)5 SCC 663:**

A. Accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

B. If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the court at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the District Legal Services Authority.”

3. Mention **the official email ID and video conferencing link of this court** on the summons.

4. **Preserve PF form, service report, postal/courier envelopes and upload scanned copies thereof on the LAYERS 2.0.**

Accused is directed to appear before this court through video conferencing on the Cisco V. C Room ID <https://delhidistrictcourts.webex.com/meet/nicentral2>. Parties can access information pertaining to working of Digital NI Act Courts through the link <https://delhicourts.nic.in/digitalnicourts.html>.

Put up for appearance of accused, grant of bail and framing of notice under Section 251 Cr. P.C on **26.05.2022**.

The order be uploaded as per rules.

(Akansha Gautam)
MM (NI Act) Digital Court-02,
Central, THC, Delhi
08.03.2022.