

58CC NI ACT8314/2022TATA POWER DELHI
DISTRIBUTIONLTD. Vs. PIYUSH KATHURIA

10.10.2023

Proceedings conducted online through VC using Cisco Webex as well as through Hybrid Mode.

Present: Ms. Shivani Sharma, proposed AR for the complainant.

This is fresh matter at the stage of consideration.

Original file is not submitted citing paucity of space at room no. 182. The complainant is hereby directed to keep the file in safe custody and produce the same as and when directed by this court.

Proposed AR for the complainant submits that an application for substitution of AR has been emailed on the official ID of this court alongwith Power of Attorney. The said application is supported with Board Resolution of the complainant company and affidavit of evidence of new AR.

Heard. Perused.

In view of the grounds mentioned in the application, the same stands allowed. Accordingly, Ms. Shivani Sharma stands substituted as AR in place of Mr. Vaibhav Gupta, the erstwhile AR. The application stands disposed off accordingly.

Record of the file perused. All the statutory requirements under NI Act are complied with. 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, therefore, take cognizance of the said offence.

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(Raj Kumar Singh)

**MM (NI Act), Digital Court-03,
Central, THC, Delhi**

10.10.2023

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

Let summons be issued to the accused on filing of PF/RC/AD/ speed post, returnable on next date. Complainant is directed to file PF and take steps within **one month** including providing copy(ies) of complaint and related documents. Reader-cum-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.

Service be also effected on the email, WhatsApp message(s) and text message of accused person(s), as provided by the complainant and further subject to filing of report of service.

As per the guidelines laid down as in the case titled as *Damodar S. Prabhu Vs. Sayed Babalal H, (2010) 5 SCC 663*, the Reader-cum-Ahlmad is directed to mention the following two clauses on the summons issued against the accused (by adding separate sheet, if required):

“A. Accused can make an application for compounding of

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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.”

The Reader-cum-Ahlmad is directed to mention the official email id and video conferencing link of this Court on the summons. **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.** Reader-cum-Ahlmad is further directed to 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 physically in Room No.206, Extension Block, Tis Hazari, Delhi at 10.00 am sharp or through video-conferencing on the Cisco WebEx application through the permanent Cisco WebEx VC Room Id
<https://districtcourtdelhi.webex.com/join/nicentral3> . Parties can access information pertaining to working of Digital NI Act Courts through the link

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<https://delhicourts.nic.in/digitalniccourts.html> .

Put up for appearance of accused, grant of bail and framing of notice under section 251 Cr.P.C. on **20.03.2024**.

The order be uploaded as per rules.

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