

ORDER REGARDING ISSUE OF PROCESS

Complainant filed this complaint under Section 200 of Cr.PC for the offence punishable under section 138 of NI Act.

2. This Court took cognizance on the said offence and registered the same in PC Register as PCR No.53036/2020. The complainant filed his sworn statement affidavit and got examined as PW-1 and got marked 22 documents as Ex.P1 to Ex.P22 i.e.,

Ex.P1 to 9	:	Cheques,
Ex.P10 to 18	:	Bank endorsements
Ex.P19	:	Copy of legal notice
Ex.P20	:	Copy of Mail
Ex.P21	:	Certificate U/sec.65 B of Evidence Act
Ex.P22	:	Copy of Whatsapp message.

3. Heard the Learned Counsel for the Complainant.

4. Perused the averments made in Complaint as well as Sworn statement of the Complainant and also perused the documents available on record the legal notice was issued through email due to lock down and Covid 19. The Cheques at Ex.P1 to 9 are dated 4-1-2020 and Bank endorsement are Ex.P10 to 18 are dated 5-3-2020, the legal notice was sent through email and whatsapp on 2-4-2020. The notice was issued within 30 days from the date of endorsement. But it is sent through email and whatsapp.

5. The Learned Counsel for the Complainant argued that, during March & April 2020 due to Covid lock down was there, so legal notice was sent through email and whatsapp as per Ex.P20 & P22. Further the Learned Counsel for the

Complainant relied Order passed in Suo motto Writ petition No.3/2020 of Hon'ble Supreme Court. Wherein the Hon'ble Apex court held in last para that,

"Due to nationwide lock down it was difficult to serve the summons, thus Supreme Court approved the distribution of summons and other documents via whatsapp in addition to email in July 2020."

Therefore by considering the above said case and notice was sent within time and due to Covid it was not possible to send the legal notice through RPAD or other media. Hence, at this stage, the Complainant has made out prima facie case to proceed against the accused and there are sufficient grounds to proceed against the accused for the offence punishable under Section 138 of NI Act.

6. Hence it is Ordered to register the case in Register No.III as CC against the accused for the offence punishable under section 138 of NI Act.

Issue summons to the accused, if PF paid and copy are furnished.

Returnable by