

CC No. 373 of 2021

MANAPURAM FINANCE LIMITED Vs. RABINDRA MAHALIK

29.01.2021

Court Proceeding through Video Conferencing using CISCO WEBEX application.

Present : Sh. Kabir Hazarika, Ld. Counsel for the complainant.

On the last date of hearing, complainant was directed to submit original cheque return memo for the purpose of OSR.

Today, Ld. Counsel for the complainant is present with original cheque return memo. Photocopy of the cheque return memo which is on record is tallied with original return memo which completely matches with the original. Original cheque return memo is seen and returned to the Counsel. Endorsement to that effect is made on the photocopy, which is on record. He has also filed an affidavit regarding correct and verified address of the accused. It be taken on record.

This is a complaint filed for offence punishable under Section 138 Negotiable Instruments Act (hereinafter as NI act). Scanned copy of the Complaint, affidavit of evidence and other annexed documents perused. Physical record with the Ahlmad shows that the original copy of the above mentioned documents have been submitted by the complainant. I take cognizance of said offence.

Subject to the discretion of the court, Section 145(1) of the NI act allows the affidavit of the complainant to be treated as evidence in enquiry and trail. Therefore, the requirement of examination of complainant in court before summoning of accused stands obviated as his affidavit along with the documents exhibited in it can be treated as evidence. This proposition is held by Hon'ble SC in *A. C. Narayanan Vs. State of Maharashtra & Anr.* (2014) 11 SCC 790. After having perused the complainant evidence by way of affidavit and the documents exhibited in it and treating them as evidence, the ingredients of section 138 NI act

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stands prima-facie satisfied. Therefore, there appears sufficient grounds for proceeding against the accused for offence punishable under section 138 of NI act.

Hence, issue summons against the accused on P.F./R.C./Approved Courier returnable on or before NDOH. Service be also effected on the email, whatsapp message(s) and text message of accused, as provided by the complainant and its report be also filed before NDOH. The process server is directed to serve the summons by way of affixation, in case premises found closed or the same could not be served personally or on any adult male member after ascertaining the address from two respectable inhabitants of the locality.

An endorsement be also made that if application for compounding at first or second hearing is made the court may pass appropriate orders at the earliest as per judgment of *M/s. Meters Meters and Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560* and if settlement is made at subsequent stage the consequences as envisaged in *Damodar S. Prabhu; (2010) 5 SCC 663* shall be enforced.

Complainant is directed to file process fee, copy of the complaint and also file NI act complaint META Data form within 5 days from today. Ahlmad is directed to preserve PF form, service report, postal courier envelopes and upload the scanned copy thereof on LAYERS as well as on drive. He is further directed to mention that hearing shall be conducted only through video conferencing and also mention official email id and video conferencing link of this Court on the summons.

Put up for appearance of accused/furnishing of bail/consideration on notice on **03.03.2021 at 10:00 AM.**

(Raghav Sharma)
MM(NI ACT) Digital Court-03/SE
Saket/ND/29.01.2021