

CNR No:PBBT030043692026 CASE No:NACT-1021-2026

**Cholamandalam Investment and Finance Company Ltd.
Vs.LAABHHEERA**

Present: Sh.Shaminder Singh Sandhu, Advocate for the complainant.

Arguments heard on point of summoning. As the accused is resident of Kotkapura, as such, the mandate of Section 202 of Cr.P.C. (Section 225 of BNSS, 2023) requires that before issuance process to such an accused who resides beyond jurisdiction of the Court an inquiry/investigation is required to be held and satisfaction to this effect has to be recorded. However, the offence under Section 138 of Negotiable Instrument Act is purely technical in nature and governed by a special statute. In my opinion, an inquiry under Section 202 of Cr.P.C. is unwarranted in an offence under Section 138 of Negotiable Instruments Act as there is no scope of investigation of police in such offence. As the Proviso to Section 223 of The Bharatiya Nagarik Suraksha Sanhita, 2023 provides that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard. However, the offence under Section 25 & 27 of Payment & Settlement System Act, 2007 read with 138 of N.I Act is governed by a Special Statute which provides its own procedure. As such, this Court is of the opinion that notice to accused before summoning under Section 138 of Negotiable Instruments Act 1881 is not required and provisions of Proviso to Section 223 of The Bharatiya Nagarik Suraksha Sanhita, 2023 shall not be applicable in case of summoning of accused under Section 138 of Negotiable Instruments Act 1881. CW1 had stepped into the witness box and reiterated the whole sequence of event in minute details through his affidavit Ex.CW-1/A, as got detailed by him in his written complaint. Complainant also placed on record documents i.e., copy of power of attorney as Ex.C1, copy of NACH as Ex.C2, copy of ACH as Ex.C3, legal notice as Ex. C4, postal receipt as Ex. C5, account statement as Ex.C6, repayment schedule as Ex.C7 and copy of resolution as Ex.C8. Further, the complaint has been filed within the period of limitation. The detailed expression of opinion is avoided as it is no longer necessary in view of the observation of the Hon'ble Supreme Court of India in UP Pollution Board Vs Mohan Meekan 2000 (2) RCR 421 and reiterated in another case titled as Deputy Chief Controller of Import and Export Vs Roshan Lal Aggarwal 2003(2) RCR Criminal 110 (SC). Further, it has been held by various Hon'ble High Court's

that at the time of issuing process, what Magistrate is required to find out is whether there is a prima facie case for issuance of process, the Magistrate has to take into consideration inherent improbabilities appearing on the face of the complainant or in the evidence led by the complainant in support of the allegation. From the perusal of oral and documentary evidence adduced on the file in preliminary evidence led by the complainant, I find sufficient grounds to proceed against accused under Section 138 of Negotiable Instruments Act. Accordingly, accused is ordered to be summoned to face trial for having committed an offence under Section 25 & 27 of Payment & Settlement System Act, 2007 on filing of PF, list of witnesses and copies of complaint within seven days for 21.09.2026 through RC/AD service of postal department/ordinary process. In addition to it, separate notice be also sent to accused through registered cover as envisaged under Section 144 of the Act. Dasti summons be given if so requested.

Date of Order: 05.06.2026
Sameer, Stenographer Gr.II

(Shruti)
Judicial Magistrate Ist Class,
Bathinda
UID No.PB00564