1. Complaint,*Shree ram finance ltd. through it's legal head Kamlesh Chavada* filed such complainant against the Vinodbhai Virjibhai Dihora *resided at Alang, Ta.Talaja* under Section 138 of the Negotiable Instruments Act, 1881 ("the Act" for short).

On perusing of such complainant, it is appeared that the accused is residing out side of jurisdiction of Bhavnagar.

2. Heard, the learned Advocate for the complainant. He has submitted that the Cheque given by the accused was presented within limitation, it was return unpaid for the reason shown in a return memo and thereafter, the notice was issued within limitation period, but accused has failed to make the payment and therefore, the present complaint has been filed within limitation and therefore, prays to issue process against the accused.

3. Hon'ble Apex Court in Suo Moto Writ Petition (Cri.) No.2/2020 has held in para no.25 that,

24. The upshot of the above discussion leads us to the following conclusions:

(1) ....

(2) Inquiry shall be conducted on receipt of complaints under Section 138 of the Act to arrive at sufficient grounds to proceed against the accused, when such accused resides beyond the territorial jurisdiction of the court.

(3) For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.

Also, Hon'ble Apex Court in the case of Indian Bank Association & Others Vs. Union of India & others,{(2014) 5 SCC 590} directs that on the day when the complaint is filed, the Magistrate shall scrutinize the complaint and if the complaint is accompanied by the affidavit and the documents if they are found to be in order, Court can take cognizance of the offence by issuing summons. Meaning thereby, if the affidavit and examination of documents filed with the complaint are found in order, cognizance can be taken without examining witness, relying on the affidavit and the documents.

4. Complaint is filed his affidavit as well as documents along with compliant. A bare reading of the complaint, affidavit in evidence and the documents makes it evident that, prima facie, ingredients of the offence under Section 138 of the Act are attracted. Also the complaint, the affidavit and the documents are found in order. Perusal of the document, particularly cheque and its memo indicates that the complainant maintains his account at Bhavnagar and the cheque is also dishonoured at Bhavnagar. Therefore, this Court has jurisdiction. So this Court is of the view that cognizance of the offence can be taken by issuing summons against the accused.

Accordingly, the registry is hereby directed to register the case on criminal case register and Summons to be issued against the accused for the offence under Section 138 of the Act read with Sec-227 of Bharatiya Nagarik Suraksha Sanhita-2023, returnable on Dt.19-08-2026 As per the direction issued by the Hon'ble Apex Court in the case of Indian Bank Association, the summons shall be served to the accused through R.P.A.D. at the cost of the complainant.

Date: 4/6/2026
Bhavnagar.

(H. B. SHARMA)
Additional Chief Judicial Magistrate,
Mahuva
Unique ID Code No.GJ-01147