

21.04.2026

Fresh complaint u/s 138 NI Act received by way of assignment. It be checked and registered.

Present: Sh. Deepanshu Chaudhary, Ld. Counsel for the complainant
alongwith complainant in person.

The Hon'ble Supreme Court of India in judgment dated 25.09.2025 in Criminal Appeal No. 1755/2010 titled ***"Sanjabij Tari Vs. Kishore S.Borcar and Anr"*** has directed that *"there shall be no requirement to issue summons to the accused in terms of Section 223 of BNSS i.e., at the pre-cognizance stage."* In light of the above said judgment, it is imperative that the matter shall proceed further. Therefore, summoning of the proposed accused is dispensed at the pre cognizance stage.

Further, in the light of the decision of full bench of Hon'ble Supreme Court of India cited as ***"A.C. Narayan v. State of Maharashtra & Anr.," (2014) 11 SCC 790***, this Court is of the considered opinion that there is no need to examine the complainant at this pre-summoning stage for the purpose of issuance of process against the accused.

At this stage, arguments on the point of summoning heard.

Court file including the affidavit of the complainant and documents relied upon perused. As per the complaint, the accused had issued the cheque in question in favour of the complainant towards discharge of his liability/debt and the same was presented by the complainant to his bank within the period of its validity. Further, the cheque in question is stated to have been returned by the bank as unpaid on account of *"payment stopped"* and thereafter within a period of 30 days, the complainant issued a legal notice to the accused regarding return

Contd...2/-

of the cheque as unpaid and the accused failed to pay the cheque amount within 15 days of receipt of the legal notice. The present complaint has been filed within the limitation period. Based on the above facts, prima facie there are sufficient grounds for proceeding against the accused. Therefore, cognizance is taken of the offence under Section 138 of the NI Act and summons be issued to the accused at all given addresses on filing of PF, copy of complaint, postage etc. within one month returnable on NDOH.

Further, summons will be also issued to the accused at all given addresses by all the permissible modes including by way of Speed Post, Registered AD and authorized Courier and complainant is directed to file tracking report of all the postal receipts with an affidavit of proof of service before the next date of hearing.

List for appearance of accused on **31.08.2026**.

(SANGHMITRA)
JMFC-01/Shahdara
KKD/21.04.2026