ORDER BELOW EXHIBIT -: 1

1. Read the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 ("the Act" for short), affidavit under Section 145 the Act and the documents annexed therewith. Read the decisions of Hon'ble Supreme Court of India in Indian Bank Association & Others Vs. Union of India & Others. (2014) S SCC 598 which 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 & the documents and if they are found to be in order, court can take cognizance of the offence by issuing summons.

2. Furthermore, the Hon'ble Apex Court in Suo Motu Writ Petition (ort.) No. 2/2020 has also held that when accused resides beyond the territorial jurisdiction of the Court, an inquiry, on receipt of the complaint, shall be conducted, which may be held on the basis of affidavit and in suitable cases, the Court can restrict the inquiry to examination of documents without insisting for examination of witness. 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 & the documents.

3. Further Hon’ble Supreme court in SANJABIJ TARI VERSUS KISHORE S. BORCAR & ANR.CRIMINAL APPEAL NO. 1755 OF 2010, **Para 36 E** held that

> E. Recently, the High Court of Karnataka in Ashok Vs. Fayaz Aahmad, 2025 SCC OnLine Kar 490 has taken the view that since NI Act is a special enactment, there is no need for the Magistrate to issue summons to the accused before taking cognizance (under Section 223 of BNSS) of complaints filed under Section 138 of NI Act. This Court is in agreementwith the view taken by the High Court of Karnataka. Consequently, this Court directs 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.

4. A bare reading of the complaint, examination in chief and the documents make it evident that, prime facie, the ingredients of the offence under Section 138 of the Act are attracted. Perusal of the record also indicates that the complainant maintains account at court jurisdiction and the cheque is also return/bounce . Therefore, this Court has jurisdiction. As the complaint, the affidavit and the documents are found in order, this Court is of the view that cognizance of the offence should have been taken and there is no need for further inquiry. Considering the complaint fact, examination in chief, supported documents at this stage court has only need to satisfy that whether there is sufficient ground for proceeding or not (Sunil Todt & others Vs. State of Gujarat Para 40), And here court satisfies for further proceedings. Hence following order is being passed.

O R D E R

1. Case register in Criminal Case register. Summons under section 227 of the Bhartiya Nagrik Suraksha Sanhita (B.N.S.S) is ordered to be issued against the accused for the offense under Section 138 of the Act in prescribed performa along with requisite copies.

2. In addition to normal mode of service, the complainant is also permitted to serve the summons through R.P.AD. & e-mail as prescribed according to law.

Date 18-4-2026
Morva(H)

(M.R.KOTHARIYA)
Judicial Magistrate First Class,
Morva(H)