

03.08.2023

(Proceedings conducted through Video conferencing on Cisco Webex platform using the URL link <https://delhidistrictcourts.webex.com/meet/ninewdelhi3>.)

Present: Sh. Rohit Sharma, Ld. counsel for the complainant.

Ld. counsel for the complainant has filed PSE affidavit on the e-mail ID of the court. Same be taken on record.

Ahlmad of the Court intimates that he has received the original case documents from the complainant. He is directed to keep the same in his safe custody.

COGNIZANCE AND SUMMONING ORDER

(1) This is a complaint filed for offence punishable under Section 138 N. I. Act. Complaint, affidavit of evidence and other annexed documents perused. I take cognizance of the said offence.

(2) The Hon'ble Supreme Court in **A. C. Narayanan Vs. State of Maharashtra & Anr."** (2014) 11 SCC 790, has given discretion to the Magistrate to rely on the complaint, documents annexed and the affidavit submitted by complainant in deciding whether or not to issue process. u/s. 200 CrPC and it is not mandatory to examine upon oath the complainant or its witnesses in order to decide the same. Upon considering the instant complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused for offence punishable under Section 138 N. I. Act. Accused is prima facie responsible, being the drawer of the cheque in dispute.

(3) In terms of inquiry conducted under Section 202 CrPC, all the statutory requirements have been complied with. The complaint is filed within the period of limitation. I am also prima facie satisfied that the offence has been committed within the jurisdiction of this court.

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Hence, issue summons against the **accused** on PF/RC/Approved Courier. Service be also effected on the email and whatsapp message(s), as provided by the complainant and further subject to filing of report of service. Necessary particulars be filed on affidavit within 7 days. For facilitation of the same, dasti summons are permitted. The process server is directed to serve the summons by way of affixation in terms of Sec. 65 CrPC, if premises found closed or same could not be served personally or on any adult male member.

(4) As per the guidelines laid down in **Damodar S. Prabhu Vs. Sayed Babalal H, AIR 2010 (SC) 1907**, Ahlmad is directed to make a mention on the summons issued against the accused (by adding separate sheet, if required) that “accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the Court without imposing any costs on the accused.”

(5) Ahlmad is also directed to mention the official email id and video conferencing link of this Court on the summons. Complainant is directed to file PF and take steps within 07 days including providing copy(ies) of complaint otherwise the complaint may be dismissed u/s 204(4) Cr. P.C. The complainant is also apprised of the fact that at the time of filing 1 st PF, he is required to mandatorily fill the Meta Deta form.

Put up for report/appearance of accused on **02.12.2023**.

PA is directed to do updation of the case and upload the order as per rules.

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