

21.08.2026

Fresh complaint case under Section 138 NI Act filed. It be checked and registered.

Present: Mr. Ayush Bodwal alongwith Id. Counsel Sh. Sushil Yadav for complainant.

It is pertinent to mention that as per the judgment of Hon'ble Supreme Court in the case of **Sanjabig Tari Vs. Kishore S. Borcar & Anr. Criminal Appeal No. 1755/2020**, it was held that there is no need to issue the notice to the accused at the pre-cognizance.

Arguments on summoning heard.

I have gone through the entire record including the complaint and the documents. It is alleged that accused has issued the cheque in question to the complainant to discharge the liability. On its presentation the same was dishonored. Therefore, demand notice was sent to the accused by the complainant. Despite service/ deemed service of said notice, accused has failed to make the payment as per provisions of Negotiable Instruments Act.

Complaint is filed within the prescribed period of limitation. In my considered opinion, prima facie there is sufficient material available on record to summon the accused namely **Rajeev Kumar**.

The Ld. counsel for the complainant requests that the pre-summoning may be carried out in absence of the complainant in terms of the dictum of A C Narayanan judgment. He further submits that dictum of A C Narayanan is also applicable to complaints u/s 138 NI Act.

In matter of "A. C. Narayanan Vs. State of Maharashtra & Anr." (2014) 11 SCC 790, Full Bench of Hon'ble Supreme Court of India has held that "*...it is a matter of discretion and the Magistrate is not bound to call upon the complainant to remain present before the court and to examine him upon oath for taking decision whether or not to issue process on the complaint under Section 138 of the NI Act. For the purpose of issuing process under Section 200 of the Code, it is open to the Magistrate to rely upon the verification in the form of*

affidavit filed by the complainant in support of the complaint under Section 138 of the NI Act...”

Complaint, affidavit of evidence and documents considered in light of above cited judgment. In opinion of this Court, there is no need to examine the complainant's evidence for purpose of issuance of process. In view of complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused namely **Rajeev Kumar** for offence punishable under Section 138 NI Act.

Therefore, this court deems it fit to take cognizance u/s 142 NI Act. Hence, accused **Rajeev Kumar** be summoned for offence u/s 138 of Negotiable Instruments Act on filing of PF/RC. In the event the house/office/premises is found to be locked/refusal to accept the service/any other contingency the process be served through affixation. PF be filed within 21 working days.

Matter be taken up now on **03.11.2026**.

As per the guidelines laid down as in the case titled as “Damodar S. Prabhu Vs. Sayed Babalal H”, AIR2010(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.”

(Ajay Narwal)
JMFC-04, S/W Dwarka Courts
New Delhi/21.08.2026