

ದಿ: 17.03.2026 ರಂದು ಸತ್ಯ ಪ್ರತಿಜ್ಞೆ ಮೇಲೆ ಪ್ರಮಾಣ ವಚನ ಬೋಧಿಸಲಾಯಿತು.

ಈ ದಿನ ನಾನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ನನ್ನ ಪ್ರಮಾಣೀಕೃತ ಹೇಳಿಕೆ ಬದಲಿಗೆ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ. ಅದರಲ್ಲಿ ಬರೆದಿರುವ ಎಲ್ಲಾ ಅಂಶಗಳು ಸತ್ಯವಾಗಿರುತ್ತದೆ ಮತ್ತು ಸದರಿ ಅಂಶಗಳನ್ನು ಓದಿ ತಿಳಿದುಕೊಂಡು ಸಹಿ ಮಾಡಿರುತ್ತೇನೆ.

ದಿ: 15.09.2025 ರಂದು ಆರೋಪಿಯು ನೀಡಿದ ಇಂಡೆಸ್ ಇಂಡ್ ಬ್ಯಾಂಕ್, ಹೊಸಕೋಟೆ ಶಾಖೆಯ ಚೆಕ್ ಸಂಖ್ಯೆ 053143ನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು ನಿಪಿ.1 ಎಂದು, ದಿ: 03.10.2025 ರಂದು ನಿಪಿ.1 ಮಾನ್ಯಗೊಳ್ಳದ ಕುರಿತು ಹೆಚ್.ಡಿ.ಎಫ್.ಸಿ ಬ್ಯಾಂಕ್ ಹೊಸಕೋಟೆ ಶಾಖೆಯವರು ನೀಡಿದ ಹಿಂಬರಹವನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು ನಿಪಿ.2 ಎಂದು, ದಿ: 09.10.2025 ರಂದು ವಕೀಲರ ಮೂಲಕ ಆರೋಪಿಗೆ ನೀಡಿದ ನೋಟೀಸಿನ ಕಛೇರಿ ಪ್ರತಿಯನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು ನಿಪಿ.3 ಎಂದು, ನಿಪಿ.3 ಆರೋಪಿಗೆ ಕಳುಹಿಸಿದ ಕುರಿತು ಅಂಚೆ ರಸೀದಿಯನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು ನಿಪಿ.4 ಎಂದು , ನಿಪಿ.3 ಆರೋಪಿಗೆ ಜಾರಿಯಾದ ಕುರಿತು ಅಂಚೆ ಸ್ವೀಕೃತಿ ಪತ್ರವನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದು ನಿಪಿ.5 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಆದ್ದರಿಂದ ಪರ್ಯಾಯವನ್ನು ಪರಿಗಣಿಸಿ ಆರೋಪಿಯ ವಿರುದ್ಧ ಕಲಂ 138 ಎನ್.ಐ ಆಕ್ಟ್ ಅಡಿಯಲ್ಲಿ ಸೂಕ್ತ ಕ್ರಮ ಜರುಗಿಸಲು ವಿನಂತಿ ಇದೆ.

(ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನನ್ನ ಉಕ್ತಲೇಖನದಂತೆ ಗಣಕಯಂತ್ರದ ಮೇಲೆ ಗಣಕೀಕರಿಸಿದೆ)

ಓ.ಹೇ.ಕೇ.ಸ.ಇದೆ.

ಪ್ರಧಾನ ಸಿವಿಲ್ ಜಡ್ಜ್ ಮತ್ತು ಜಿ.ಎಂ.ಎಫ್.ಸಿ.  
ಹೊಸಕೋಟೆ.

Case called out.

Complainant is present.

The complainant files affidavit in lieu of sworn statement and examined as PW.1 and got marked Ex.P1 to 5.

Heard,

The complainant has filed the present private complaint under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Hereinafter referred to as the 'BNSs', for brevity) against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (Hereinafter referred to as the 'NI Act.', for brevity). It is worth to refer provisions of BNSs, particularly first proviso of Section 223 of BNSs, which is being reproduced below:-

**223. Complaints to Magistrate-** (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:

The above proviso manifest that no cognizance of an offence shall be taken by the magistrate unless hearing the accused. It is worth to refer decision of the Hon'ble High Court of Karnataka in the case of Ashok V/S Fayaz Aahmad in Crl.Pet.No.101514/2025 reported in NC: 2025: KHC-D:6966 wherein the Hon'ble Court have held at para no.23 that **Since Negotiable Instrument Act, 1881 is special enactment and in view of Section 5 of BNSs r/w. Section 143 of NI Act as far as the cases tried by the learned Magistrates under Section 138 of NI Act, there is no need for the Magistrate to give an opportunity of being heard to the accused before taking cognizance on the complaint of payee/holder in due course of cheque for offence punishable under Section 138 of NI Act.** It is also worth to refer decision of the Hon'ble High Court of Madras, Madhurai bench in Crl.OP(MD) No.19778-2022 dated 12.02.2025 in the case of M/s. Ultimate Computer Care and another V/S M/s. SMK Systems wherein their lordships have held at para no.14(ii) that **Having**

regard to the fact that the N.I Act has prescribed a special procedure, it is a special law within the meaning of Section 5 of the BNSS, 2023. Hence, the procedure of hearing the accused at the stage of taking cognizance as prescribed in the proviso to Section 223 BNSS shall not apply to complaints under Section 138 of the N.I Act, 1881. In view of above sacred ratio, an issuance of prior notice to the accused as contemplated under first proviso of Sec 223 of B N S S is not required.

Perused the complaint and documents marked Ex.P1 to Ex.P5.

### **ORDER ON PRIVATE COMPLAINT.**

The complaint has been filed for the offence punishable under section – 138 of Negotiable Instrument Act (Hereinafter called in short as N.I Act) for dishonour of cheque amount of Rs.5,00,000/- (Rupees Five Lakh)

The following are the events dates.

Cheque dated	: 15.09.2025
Bank endorsement date	: 03.10.2025
Legal Notice date	: 09.10.2025
Postal Acknowledgement	: 13.10.2025
Complaint is presented on	: 18.11.2025

The complaint is in time, at this juncture, the complainant has complied the ingredients as enumerated under section-138 of N.I. Act and there are sufficient materials to proceed against the accused. Hence, cognizance for the offence punishable u/sec 138 of NI Act is taken. Accordingly, I proceed to pass the following:-

### **ORDER**

Office to assign CC. number.

Issue summons to accused through speed post.

Returnable by: 17.06.2026.

**Prl. Civil Judge & JMFC.,  
Hosakote.**

