

PCR. 93/2022

GPA holder of the Complaint is presented by the complainant, office register as PCR. and Put up.

Sd/-

Sr.CJ and JMFC.
19-10-2022

C/o, Perused, cognizance of offence punishable U/s 138 NI Act is taken as contemplated under clause(a) of sub-section(1) of Section 190 of Cr.P.C., call again for the sworn statement.

GPA holder of Complainant is present, sworn statement recorded, he is examined as Pw-1, Ex-P1, 2, 2a, 3 to 8, 8a. 9 marked.

Heard, perused,

ORDER ON ISSUE OF PROCESS.

This is a complaint filed by the complainant through the GPA holder by name Veerendraprasad S.R. who is one of the employees of the complainant Amruth Organic Fertilizers, working at Malladihally village, Ramagiri Hobli, Holalkere Taluk under Section 200 of Code of Criminal Procedure, seeking to take cognizance against the accused for the offence punishable under Section 138 of N.I. Act.

The GPA holder of the complainant along with complaint filed duly sworn affidavit, that in his affidavit filed in lieu of Sworn Statement, he had reiterated the facts and got himself examined as PW-1, Ex-P1, 2, 2a, 3 to 8, 8a. 9 got marked and stated that, the accused has committed the breach, therefore, the complainant has complied all necessary procedure as contemplated under Section 138(a) to (c).

In the present case, the complainant had

presented the cheque once, after receipt of return memo, he had issued statutory notice to the accused, and on the request of the accused, he waited for some time, even after lapse of statutory period as contemplated U/s.138 of NI Act, accused not made the payment of the amount shown in the cheque, therefore, the present complaint has not been filed within the time as prescribed U/o 138(a) to (c) of NI Act.

All the events are within the limitation, as required under Section 138(c) and 142 of Negotiable Instruments Act. It is also here pertinent to note the guidelines issued by the Hon'ble Apex Court with regard to the sworn statement of GPA holder of the complainant to be taken by an affidavit, and he is authorized under GPA even to give evidence, that has to be considered as evidence at the stage of pre cognizance stage as well as in the post cognizance stage in a decision rendered by the Hon'ble Apex Court in the case of **Indian Bank Association and other Versus Union Bank of India and other** [Appeal Number : Writ petition (civil) no.18 of 2013 Due Judgment/Order : reported in 21/04/2014] 2014(5) SCC 590.

On perusal of cheque endorsement and legal notice and other documents annexed to the complaint. I am satisfied that, there is a prima-facie case to proceed against the accused. Hence, I proceed to pass the following.

ORDER

Cognizance of the offence under Section 138 of N.I. Act already taken, register the case in CC.

registers i.e., Register No.III issue process against the accused for the offence punishable under section 138 of N.I. Act.

Issue summons to accused by RPAD, if P.F. paid r/by.

Call on: 28-11-2022

Senior Civil Judge & JMFC,
Holalkere.