

IN THE COURT OF CIVIL JUDGE AND JMFC; SRINGER.

PCR No. 5/2026

Complainant : Mr.Yohan

Vs.

Accused: Nasir Abdul Khadar

07-03-2026.

Complainant present. Counsel for Complainant present.

Further the sworn statement of the complainant is recorded. The Counsel for Complainant submitted that the sworn statement of the complainant filed by way of affidavit be treated as the evidence of complainant as the above complaint is filed against the accused for the offence punishable under section 138 of NI Act.

Further submitted that as per the directions of Hon'ble Apex Court in Indian Bank Association case reported in AIR 2014 SC 2528, the sworn statement of the complainant be treated as the examination in chief of complainant/PW1. Further the complainant also identified the documents produced before the court as per Ex.P1 to 5 and signature of the accused over the cheque/Ex.P1 as Ex.P1(a). Ex.P2 is the Bank Endorsement which discloses that the cheque in question is dishonoured for the reasons "**FUNDS INSUFFICIENT**". Ex.P3 is the Legal notice, Ex.P4 is the Postal Receipt, Ex.P5 is the Postal acknowledgment.

As per the ratio laid down by the Hon'ble High court of Karnataka in Ashok Vs Fayaz Aahmad in Crl.P.No. 101514 of 2025 vide Judgment dated 28.04.2025 there is no necessity to issue notice to the accused as per the proviso of Section 223 of BNSS for the complaint filed against an accused for an offence punishable under section 138 of NI Act.

The Complainant has filed the complaint within the prescribed time under the statutory period as prescribed under section 138 of NI Act and thereby the Complainant has made out all statutory ingredients to attract the commission of offence punishable under section 138 of N.I Act. The affidavit in lieu of his examination in chief filed by the Complainant/PW1 along with the documents at Ex.P1 to 5 supports the contention of complainant at this juncture. Therefore this Court is of opinion that the Complainant has made out prima-facie case U/Section 138 of N.I Act. Accordingly, the following:

ORDER

1. Register the case as a Criminal Case in Reg.No. III against the Accused U/Section 138 of NI Act.

2. Issue summons to Accused through RPAD U/Section 227 of BNSS, if RPAD and PF is paid and also to furnish copy of the Complaint and sworn statement and documents along with summons. R/by. 10-04-2026.

Further, Office is directed to keep the original cheque in the above case in safe custody until further orders.

Accordingly, PCR stands disposed off.

CJ and JMFC:Sringeri.