

The Complainant filed this Complaint under Section 223 of The Bharatiya Nagarik Suraksha Sanhita 2023, for the offence punishable under Section 138 of Negotiable Instrument Act.

The complainant filed a sworn statement affidavit.

The complainant has filed the Special Power of Attorney.

I perused the entire materials placed on record by the complainant and the sworn statement affidavit.

On perusal of the case papers and material placed on record it is quite evident that, the cheque amount involved in this case is above Rupees one lakh.

The demand notice has been sent to the accused in time and it has been served.

Hence the ingredients of Section 138 of N.I.Act is fulfilled.

Hence I take cognizance of offence under Section 138 of the N.I. Act.

It is to be noticed that the provisions of NI Act discloses that the cases are to be tried as summarily. But when a case has been tried summarily the fine amount that may be imposed by this Court can't exceed Rs.1,00,000/-.

In view of suo moto Writ Petition No. 02/2020, the Hon'ble Supreme Court of India held that the cases tried in invoking N.I. Act can be tried as summons trial. Hence, I convert this case to be tried as summons trial from summary trial because the cheque amount exceeds Rs.1,00,000/-. (Rupees One Lakh).

However the cheque is not marked, the Office is hereby directed to keep the said cheque in safe custody till it is called for trial.

Office is hereby directed to register this case in III register.

Civil Judge and JMFC.,
Moodbidri.