

KAKL500016212026



ORDER

This private complaint is filed by the complainant against the accused U/Sec.223 of the Bharatiya Nagarik Suraksha Sanhita 2023 for the offence punishable U/Sec.138 of Negotiable Instruments Act.

It is alleged in the complaint that the accused had taken loan from the complainant and for discharge of the said loan amount, the accused issued a post dated cheque bearing No.028009 dated 09.01.2026 for Rs.10,00,000/- drawn on South Indian Bank, Chembukavu Branch, Thrissur-680020 in favour of the complainant.

It is further alleged that the complainant presented the above said cheque for collection but the same was returned by the bank on 24.03.2026 as uncashed for the reason **FUNDS INSUFFICIENT**. Thereafter, the complainant issued a legal notice to the accused on 04.04.2026.

After filing of the complaint, sworn statement of the complainant was recorded by way of affidavit in view of decision reported in ***ILR 2004 KAR 4381 (Percy Fernandes vs. Anita Patray)*** and ***ILR 2005 KAR 2890 (K Srinivas vs. Kashinath)***. The affidavit filed by the complainant has been received by this Court instead of examining him on oath.

The sworn statement corroborated the contents of the complaint and the complainant produced the cheque issued by the accused and other material documents as per Ex.P1 to P5, 1(a).

All these facts referred by the complainant in the affidavit and the documents produced by complainant bank, prima-facie establish that the accused has committed an offence punishable U/Sec.138 of Negotiable Instrument Act.

The material placed on record at this stage is sufficient to take cognizance for the offence punishable U/Sec.138 of Negotiable Instruments Act and to proceed against the accused. It is clear from the material placed on record by the complainant that the accused has failed to make good the cheque amount. Further, the complaint is filed within the period of limitation as provided under the Act. The complainant has complied with all the mandatory requirements of Sec.138 of the Act to maintain the complaint against the accused. Therefore, I am satisfied that there is sufficient material on record at this stage to proceed against the accused. Accordingly, I proceed to pass the following :

ORDER

Cognizance is taken for the offence punishable U/Sec.138 of Negotiable Instruments Act.

The Office is hereby directed to register a criminal case against the accused in Register No.III, Criminal for the offence punishable U/Sec.138 of Negotiable Instruments Act and thereafter, issue process against the accused for his appearance if the complainant complies with all the requirements.

Call on 03.09.2026.

Sd/-
Prl. Sr. Civil Judge and JMFC,
K.G.F.