

“33.4 In the light of [section 145](#) of N.I Act, it is open to the Magistrate to rely upon the verification in the form of affidavit filed by the complainant in support of the complaint under [Section 138](#) of the N.I Act and the Magistrate is neither mandatorily obliged to call upon the complainant to remain present before the Court, nor to examine the complainant or his witness upon oath for taking the decision whether or not to issue process on the complaint under [Section 138](#) of the N.I. Act.”

Following the law laid down in ***A.C. Narayanan (supra)***, complaint, affidavit of evidence and other annexed documents considered. Thus, there is no need to examine the complainant's evidence for the purpose of issuance of process. Complaint, affidavit of evidence and other annexed documents perused.

Ld. Counsel for the complainant submits that the bank account in question as per the cheque belongs to both the respondents jointly and that the nature of loan in question is business loan. It is further submitted that both the respondents had availed the loan jointly. **After perusal of the entire record, the court is of the considered opinion that prima facie a case punishable u/s 138 N.I.Act, 1881 is made out against both the accused persons.**

Accordingly, issue summons to both the **accused persons through post/approved courier/other permissible (including dasti, if requested) modes on filing of PF & RC. PF & RC to be filed within 7 days from today.**

Ahlmad is directed to make the following endorsement on the summons in terms of the guidelines of the Hon'ble Supreme Court in the case of ***Sanjabij Tari Vs. Kishore S. Borcar and Anr. (2025 INSC 1158)*** :

(a) If the accused pays the cheque amount before recording of their evidence (Defence Evidence), the Trial Court may allow the compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes payment of the cheque amount post the recording of Defence Evidence, but prior to the pronouncement of judgement, the Court may allow compounding of the offence on

payment of additional 5 per cent of the cheque amount with the Legal Services Authority or such other authority as the Court deems fit...

Further, the process server is directed that in the event of non availability of the accused or house/office/premises is found to be locked or accused refuses to accept the service, process be served through affixation.

Put up for appearance of accused/ furnishing of bail bonds/ framing of notice on 14.08.2026.

**(Danveer)
Judicial Magistrate First Class-04, NI Act
17.02.2026**