

SIEMENS FINANCIAL SERVICES PVT LTD VS GKR POLYPLAST etc.

Present: Sh. Karan Sharma, Advocate for the complainant.

An application for condonation of delay has been moved by complainant through his counsel. As per the limitation provisions extended by the Hon'ble Supreme Court of India in Mis. Application No. 665/2021 in SMW (C) No. 3/220 delay is condoned. Heard on the application. In view of the grounds as mentioned in the application, it appears that the delay is not intentional. Accordingly, the application is allowed.

Order:

Briefly stated, the facts of the present case are that the accused issued Cheque bearing No. 012519 dated 28.02.2021 of Rs. 1069122/- for the payment to the complainant in discharge of his liability. The said cheque(s) on presentation to the banker of the accused was/were received back with the remarks "Funds Insufficient". Complainant served a legal notice upon the accused through post demanding the cheque amount. Despite that accused failed to make the payment to the complainant.

2. To substantiate the fact, the complainant stepped into the witness box as CW1 and reiterated the contents of the complaint. Complainant further placed on record the original cheque, return memo, legal notice, postal receipts, etc.

3. Heard. On perusal of documents placed on record, it reveals that the complainant had presented the cheque issued by the accused to his banker in time. Thereafter complainant issued a legal notice to the accused within a period of 30 days from the date of receipt of communication about the fact of dishonour of the cheque, still the accused failed to make payment.

4. Keeping in view the aforesaid discussion there are sufficient grounds to proceed against the accused under Section 138 of the Negotiable Instrument Act. As a necessary corollary of the above discussion accused is hereby summoned for commission of offence u/s 138 of Negotiable Instrument Act. Summons be issued to the accused for **5.06.2023** on filing of process fees through registered cover/ Speed Post/Approved courier Service/e-mail. Summons be given dasti, if so desired.

Date of Order: 01.11.2022

Priyanka
(Stenographer Gr.-III)

(Seema)
JMFC/Gurugram
(UID NO. HR0403)