

53 CC NI ACT / 13528/2025
MUTHOOT FINANCE LTD Vs. PREM PRAKASH

29.10.2025

Proceedings conducted through video conferencing via Cisco Webex App.

Matter taken up through Video Conferencing as per office order of Hon'ble Delhi High Court as per order no. 4/7/RG/DHC/2020 dated 27.08.2020.

Present: Sh. Digvijay Singh, Ld. Counsel for complainant (through VC).

Fresh case received by way of assignment. It be checked and registered as per rules.

Matter is at the stage of consideration.

In light of the judgment tiled as 'Sanjabij Tari Vs Kishore S. Borkar & Anr.' Crl. Appeal no. 1755 of 2010 passed by the Hon'ble Supreme Court on 25/09/2025, the requirement of issuing notice u/s 223 of the BNSS is dispensed with.

Arguments on the point of cognizance heard.

This is a complaint filed for offence punishable under Section 138 N. I. Act. Complaint, affidavit of evidence and other annexed documents perused.

In the case of **A. C. Narayanan Vs. State of Maharashtra & Anr. (2014) 11 SCC 790**, the Hon'ble Supreme Court has held as under:-

"29. From a conjoint reading of Sections 138, 142 and 145 of the NI Act as well as Section 200 of the Code, it is clear that it is open to the Magistrate to issue process on the basis of the contents of the complaint, documents in support thereof and the affidavit submitted by the complainant in support of the complaint. Once the complainant files an affidavit in support of the complaint before issuance of the process under Section 200 of the Code, it is thereafter open to the Magistrate, if he thinks fit, to call upon the complainant to remain present and to examine him as to the facts contained in the affidavit submitted by the complainant in support of his complaint. However, it is a matter of discretion and the Magistrate is not bound to call upon the complainant to remain present before the court and to examine him upon oath for taking decision whether or not to issue process on the complaint under Section 138 of the NI Act. For the purpose of issuing process under Section 200 of the Code, 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 NI Act. It is only if and where the Magistrate, after considering the complaint under Section 138 of the NI Act, documents produced in support thereof and the verification in the form of affidavit of the complainant, is of the view that examination of the complainant or his witness(s) is required, the Magistrate may call upon the complainant to remain present before the court and examine the complainant and/or his witness upon oath for taking a decision whether or not to issue process on the complaint under Section 138 of the NI Act."

Complaint, affidavit of evidence and documents considered in light of above cited judgment. In opinion of this Court, there is no need to examine the complainant's evidence for purpose of issuance of process. In view of complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused person(s) for offence punishable under Section 138 Negotiable Instruments Act, 1881. I take cognizance of said offence.

Hence, accused be summoned for offence u/s 138 of Negotiable Instruments Act, 1881 on filing of PF/RC. In the event the house/office/premises is found to be locked/refusal to accept the service/any other contingency the process be served through affixation. PF be filed within seven working days.

Complainant is also liberty to serve the summon through Whatsap and E-mail. Complainant is directed to file an affidavit with regard to electronic service of summons along with certificate u/s 65B Indian Evidence Act as per rule.

Matter be taken up now on **28/03/2026**.

As per the guidelines laid down as in the case titled as **Damodar S. Prabhu vs. Sayed Babalal H, AIR 2010 (SC) 1907**, Ahlmad is directed to make a mention on the summons issued against the accused (by adding separate sheet, if required) that “accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the Court without imposing any costs on the accused.”

The order be uploaded as per rules.

(Mayank Aggarwal)
JMFC (NI Act) Digital Court-02,
Central, THC, Delhi 29.10.2025