

ORDERS

The present private complaint has been filed by the said complainant under Sec.223 of BNSS 2023 against the said accused alleging that the accused has committed an offence punishable under Sec.138 of Negotiable Instruments Act.

At this juncture to prove his case, the complainant has given sworn statement which was duly recorded on oath through evidence on affidavit and he has examined himself as PW-1 and has got marked Ex.P.1 to Ex.P.5. In his sworn statement, the PW-1 has reiterated the averments and contentions as mentioned in his complaint.

Heard and perused. After going through the materials on prima-facie, the following points arise for consideration of this court which is as under:

1. Whether the complainant has made out a prima-facie case to issue process against the accused?
2. What Order?

This court answers the above said Point No.1 in the ***Affirmative*** for the following:

REASONS

Point No.1: On perusal of the materials available on record it goes to show that the cheque has been issued in the name of complainant by the accused and the said cheque has been presented to Bank and the same has returned without encashment and with an endorsement by the Bank stating with a shara "**Funds Insufficient**". The endorsement given by the Bank itself shows that the complainant could not encash the said amount as mentioned in the cheque and further, it is also clear

from the materials that the complainant has made a written demand notice i.e., legal notice issued through his counsel as called upon the accused to make the payment accordingly. Therefore at this juncture, it can be seen that the complainant has on prima-facie complied all the ingredients of Sec.138 of Negotiable Instruments Act and the said complaint is made within time. ***Hence, this court is inclined to answer Point No.1 in the Affirmative.***

Point No.2: In view of above findings on Point No.1, this court proceeds to pass the following:

ORDER

Hence, in view of the aforesaid reasons, the cognizance is taken against the accused for the offence punishable under Sec.138 of N.I. Act.

Office is hereby directed to register the case in Register No.3 for the offence punishable under Sec.138 of N.I. Act against the accused.

Issue the process against the accused, if P.F. paid.

Sd/-

I A.C.J. & JMFC, Kanakapura.