

HDFC Bank Versus _____

Present: Complainant with counsel Sh.HS Kathpal, Advocate.

Fresh complaint received. It be checked and registered.

CW-1 Mr. Hem Raj, is present and tendered into evidence duly sworn affidavit **Ex.CA** along with documents **Ex.C-1/CW-1** to **Ex.C-6/CW-1** and closed preliminary evidence.

Arguments on point of summoning of accused under Section 25 of The Payments and Settlement Systems Act, 2007 heard.

In support of his complaint, learned counsel for the complainant submitted that the accused has issued Electronic Clearance System (ECS) instructions vide Mandate and accordingly standing instructions were also received. In view of the standing instructions accused did not stick to the payment schedule as agreed. **The ECS** returned back as per the account statement **Ex.C-2/CW-1**, Certificate under Section 65-B of the Evidence Act **Ex. C-4/CW1**, The ECS which was returned and dishonoured vide **Memo Ex.C-3/CW-1** with remarks **“Insufficient Funds”**. Thereafter, the complainant personally approached the accused and also served a **Legal Notice Ex.C-5/CW-1** through registered post **Ex. C-6/CW-1** demanding the payment of ECS installment but the accused failed to repay the amount within stipulated time period.

In view of submissions of learned counsel for the complainant and the documentary evidence on record, this Court is of the considered view that the complainant was entitled to ECS clearance as instructed by accused vide mandate form. Within the period of 30 days of receipt of information from the bank regarding unpaid ECS installment, the complainant served a legal notice demanding the payment through registered post. After expiry of 15 days from the receipt of legal notice by accused but before expiry of 30 days thereafter, the instant complaint has been filed by the complainant, which is thus within the period of limitation. Accordingly, finding sufficient evidence on record to proceed against accused in the instant complaint, accused **Person** ordered to be summoned to face trial for commission of offence punishable under Section 25 of The Payments and Settlement Systems Act, 2007 for **13.01.2023** on deposit/filing of registered cover / AD / UPC/ speed post bearing proper, correct and complete address of the accused for effective & expeditious service of process without delay, along with the requisite process fee, copy of complaint, list of witnesses etc., forthwith and positively within 7 days, failing which, the complainant cannot seek any assistance from the court, furthermore it may be deemed / presumed that the complainant is not interested for the effect prosecution & pursuance of the instant complaint and court may proceed under the provision of Section 204(4) Cr.P.C. as to the *dismissal of the instant complaint due to non prosecution*.

In addition to above, Dasti summons/ notice / process may also be given, if desired.

Tarun Kumar

Date of order: 10.10.2022

Sandeep Kumar/Stenographer Gr.II

Judicial Magistrate Ist Class ,

Chandigarh/(UID No. PB0631)