

PCR 228/2026

This is a complaint filed under section 223 of BNSS alleging that, the accused has committed an offence punishable U/S 138 N.I. Act.

On filing of the complaint, this court scrutinize the complaint and the documents produced by the complainant. Complainant is examined as PW.1 by filing his sworn statement and marked the documents as Ex.P-1, Ex.P-1(a), Ex.P-2, Ex.P-2(a), Ex.P-3 to Ex.P-6, Ex.P-6(a), Ex.P-7, Ex.P-7(a), Ex.P-8.

L/c for the complainant prays to take cognizance of the offence. As per the proviso to Sec.223 of BNSS no cognizance of an offence shall be taken by the Court without giving the accused an opportunity of being heard. But the offence alleged against the accused is for punishable U/sec.138 N.I Act. It is a special enactment and in view of guidelines issued by the Honourable Appex court in Indian Bank Association and others vs Union Of India and Another s case and as per the settled position of law the special law always prevails over the general law. Therefore, issuance of notice to the accused before taking cognizance is not necessary under B.N.S.S.

I have perused the complaint and its annexure placed on Record and also heard

the arguments.

The material placed before me clearly discloses the prima-facie case against the accused, has committed the offence punishable U/S 138 of N.I. Act. The complaint is accompanied by the affidavit and the documents are found to be in order. The complaint is filed in time and also the complainant has made out the prima facie case to proceed against the accused. On perusal of oral and documentary evidence, there are sufficient materials to take cognizance for the offence punishable under section 138 of NI Act. Accordingly, I proceed to pass the following,

ORDER

Cognizance is taken for the offence punishable U/s 138 of Negotiable Instrument Act.

Office is directed to register the criminal case in Register No.III and issue summons to accused through speed post if steps taken.

Call on 28-07-2026.

Prl. Civil Judge & JMFC,
Sagara.