

ಪ್ರಥಮ ದರ್ಜೆಯ ನ್ಯಾಯಿಕ ದಂಡಾಧಿಕಾರಿಯವರ ಕಾರ್ಯಾಲಯ,
ಗುಬ್ಬಿ

ಪಿ.ಸಿ.ಆರ್.ನಂ.249/2026

ಪಿ.ಡಬ್ಲ್ಯು: 1

ಸತ್ಯ ಪ್ರತಿಜ್ಞೆಯ ಮೇರೆಗೆ ದಿನಾಂಕ : 14.07.2026

ಫಿರ್ಯಾದಿದಾರರ ಪ್ರಮಾಣೀಕೃತ ಸ್ವ-ಇಚ್ಛಾ ಹೇಳಿಕೆ:

ನನ್ನ ಫಿರ್ಯಾದಿಯ ಪ್ರಮಾಣೀಕೃತ ಹೇಳಿಕೆ ಬದಲಾಗಿ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಅದರಲ್ಲಿ ಬರೆದ ವಿಷಯ ಸತ್ಯದಿಂದ ಕೂಡಿದ್ದು ಅವುಗಳನ್ನು ನನ್ನ ಹೇಳಿಕೆ ಪ್ರಕಾರ ಬರೆಯಲಾಗಿದೆ.

ಆರೋಪಿ ನನಗೆ ಕೊಟ್ಟ ಚೆಕ್‌ನ್ನು ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ಅದನ್ನು ನಿಪಿ-1 ಎಂದು, ಅದರ ಮೇಲಿರುವ ಆರೋಪಿಯ ಸಹಿಯನ್ನು ನಿಪಿ-1(ಎ) ಎಂದು, ದಿಃ-22.05.2026 ರಂದು ಬ್ಯಾಂಕ್‌ನವರು ಕೊಟ್ಟ ಹಿಂಬರಹವನ್ನು ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ಅದನ್ನು ನಿಪಿ-2 ಎಂದು, ದಿಃ 05.06.2026 ರಂದು ನಾನು ವಕೀಲರ ಮೂಲಕ ಆರೋಪಿಗೆ ಕಳುಹಿಸಿದ ನೋಟೀಸ್‌ನ ಕಛೇರಿ ಪ್ರತಿಯನ್ನು ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ಅದನ್ನು ನಿಪಿ-3 ಎಂದು, ಅಂಚೆ ರಶೀದಿ ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ಅದನ್ನು ನಿಪಿ-4 ಎಂದು, ಅಂಚೆ ಸ್ವೀಕೃತಿ ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ನಿ.ಪಿ.5 ಎಂದು, **Tracking report** ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ನಿ.ಪಿ.6 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

ಆದ್ದರಿಂದ ಆರೋಪಿತರ ವಿರುದ್ಧ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ನನ್ನ ಪ್ರಾರ್ಥನೆ.

(ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನನ್ನ ಹೇಳಿಕೆಯಂತೆ ಗಣಕೀಕೃತ ಮಾಡಿಸಲಾಯಿತು)

ಓ . ಹೇ. ಕೇ. ಸರಿ. ಇದೆ

ಪ್ರ.ದ. ನ್ಯಾ ದಂ. ಗುಬ್ಬಿ

ORDER

This is a complaint filed under section **223 of Bharathiya Nagarika Suraksha Sanhita**, for the offence punishable under section 138 of Negotiable Instruments Act. Perused the complaint and affidavit, the complaint is well within time.

The Bharathiya Nagarika Suraksha Sanhita, is set to take effect from 1st July 2024, replacing the code of criminal procedure.

Proviso of section 223 of BNSS, reads as under:-

“ Provided that no cognizance of an offence shall be taken by the magistrate without giving the accused an opportunity of being heard”.

Section 4 of BNSS reads as under:-

4(1)- All offences under the Bharathiya Nagarika Suraksha Sanhita, 2023 shall be investigated, inquired into, tried and otherwise dealt with according to the provisions herein after contained.

4(2)- All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating into, trying or otherwise dealing with such offences.

Section 5 of BNSS reads as under:-

5(1)- Nothing contained in this Sanhita shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

NI act is a special enactment. Section 142 of NI Act reads as under.

142. Cognizance of offences-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

[Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant

satisfies the Court that he had sufficient cause for not making a complaint within such period].

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

Section 142 of NI Act is non-abstante clause. If complainant fulfills the requirements of section 138 and 142 of NI Act, this court can take cognizance without giving notice to the accused as required under proviso section 223 of BNSS.

Therefore, Cognizance is taken for the offense punishable under section 138 of NI act.

Sworn statement of the complainant is recorded. Perused the averments made in the complaint and sworn statement of the complainant. The complainant has reiterated all the averments in his sworn statement and produced the documents, original cheque, bank endorsement, copy of legal notice, receipt and Postal acknowledgment. Ex.P1 to 6 and Ex.P1(a) are marked. There is a sufficient material which are made out a prima facie case to register the case against the accused and proceed with the matter. Hence the following:-

ORDER

Register the Criminal case against the accused for the offence punishable under section 138 of Negotiable Instruments Act.

Office is directed to keep the original cheque in the safe custody of the court.

Issue summons to the accused for the above offence punishable under section 138 of Negotiable Instruments Act through speed post, returnable by-06.10.2026.

(Kiran S.P.)

**Prl. Civil Judge and JMFC.,
Gubbi**

