

Complainant present. Perused the complaint and documents placed before the Court. The complainant filed complaint against the accused for the offence punishable U/sec. 138 of NI Act. The cheque, endorsement, notice, postal acknowledgment goes to show that the complainant has made out a prima facie case against the Accused to take cognizance. The NI Act is special statute. Sec 142 of NI Act reads as follows :-

Notwithstanding anything contained in the Code of Criminal Procedure 1973. 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.

Upon reading of the above said provision makes it very clear that the provision of Cr.PC or BNSS is not applicable to take cognizance of the offences punishable u/sec 138 of NI Act. Hence issuance of notice to the Accused before taking cognizance do not arise. Section 4 of BNSS Act says that if any special statute prescribes the procedure then the said act is applicable and not the BNSS. Hence NI Act being the special statute prescribes the

procedure to take cognizance. Hence notice is not issued to the Accused. Accordingly cognizance is taken for the offence punishable u/sec 138 of NI Act.

Prl. Sr. Civil Judge & CJM.
Udupi

Complainant present. He filed affidavit in lieu of Sworn Statement, ExP1 to P10 marked.

Heard.

Perused the complaint, documents, sworn statement and Exhibits P1 to P10. On perusal of the same there are prima facie materials to proceed against the accused. Hence office is hereby directed to register criminal case against accused for the offence punishable U/sec. 138 of NI Act and issue summons to the accused through police as well as through RPAD, if RPAD is furnished by 01-04-2026.

Prl. Sr. Civil Judge & CJM.
Udupi