

**26 CC NI ACT / 45147/2026 Hero Fincorp Ltd Vs. SUDESH MISHRA
(60449323) / ()**

21.08.2026

Present: Sh. Alok Shankar, Ld. counsel for the complainant.

1. Heard on the complaint U/s 25 of Payment and Settlement Act, 2005 read with Section 138 N I Act.

2. Considering the law laid down by the Hon'ble Supreme Court of India titled in "Sanjabij Tari Vs. Kishore S. Borcar" dated 25.09.2025 wherein it was held that there is no need to conduct the pre-cognizance hearing before taking the cognizance under the cheque bouncing cases. Therefore, the Court is not issuing the notice u/s 223 BNSS.

3. I have perused the record of the case file. All the statutory requirements u/s 25 of Payment and Settlement Act, 2005 read with Section 138 N I Act has been complied with by the complainant. Therefore, this court is of the considered opinion that prima-facie case punishable u/s 25 of Payment and Settlement Act, 2005 read with Section 138 N I Act, 1881 is made out against the accused. I, therefore, take cognizance of offence U/s 25 of Payment and Settlement Act, 2005 read with Section 138 N I Act. Arguments heard on the summoning aspect.

4. As per the guidelines laid down in the case titled as "**Damodar S. Prabhu Vs. Sayed Babalal H**", AIR2010(SC)1907, Ahlmad is directed to make a mention on the summons issued against the accused (By adding separate sheet, if required) that "accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the Court without imposing any costs on the accused".

5. Ld. counsel for complainant requests that terms of **A.C. Narayanan vs. State of Maharashtra (2014)11 SCC790** may apply in the present matter.

6. In matter of "A.C. Narayanan vs. State of Maharashtra (2014)11 SCC790, full bench of the Hon'ble Supreme Court of India has held that "*it is matter of discretion and Magistrate is not bound to call upon the complainant to remain present before the court and to examine him upon oath for taking decision*

whether or not to issue process on the complaint under Section 138 of the NI Act. For the purpose of issuing process under Section 200 of the Code, it is open to the Magistrate to rely upon the verification in the form of affidavit filed by the complainant in support of the complaint under Section 138 of the NI Act....”

7. Following the law laid down in A.C. Narayanan vs. State of Maharashtra (2014)11 SCC790, complaint, affidavit of evidence and other annexed documents considered. Accordingly, there is no need to examine the complainant for the purpose of issuance of process.

8. After perusal of the entire record, the Court is of the considered opinion that there are sufficient grounds for proceeding against the accused for the commission of offence U/s 25 of Payment and Settlement Act, 2005 read with Section 138 N I Act.

9. Issue summons to the accused **SUDESH MISHRA** on filing of PF/RC/Speed post, through all modes including e-mail and whatsapp, alongwith copy of complaint and complete set of documents, at all available addresses of accused person/s, returnable on **19.02.2027**.

10. In case of premises found locked, refusal or that the accused unavailable, the summons be served by way of affixation. RC & Speed post be given dasti to the complainant or his counsel. Complainant is directed to comply with all the modes of services as ordered. PF be filed within 15 days from today.

11. As per the guidelines laid down in the case titled as “Damodar S. Prabhu Vs. Sayed Babalal H”, AIR2010(SC)1907, Ahlmad is directed to make a mention on the summons issued against the without delay accused (By adding separate 138 sheet, if required) that “accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the court **without imposing any costs on the accused**”.

12. PA to upload the order.

(Harjot Singh Aujla)
JMFC-11, South West
Dwarka Delhi/21.08.2026