

69 CC NI ACT 12010-2024

M/s Hero Fincorp Ltd Vs. Zakir Hussain

22.10.2024

Proceedings conducted through video conferencing via Cisco Webex

App.

Present: Sh. Varun Goswami, Ld. Counsel for complainant.

COGNIZANCE AND SUMMONING ORDER

1. I have perused the complaint, Authorization in favour of the AR of the complainant, pre-summoning evidence by way of affidavit of the AR of the complainant and the documents relied upon by the complainant. The present complaint has been filed within the limitation-extended period of limitation (In Re Cognizance for Extension of Limitation dated 08.03.2021 (Suo Moto Writ Petition (Civil) No.3-2020 and miscellaneous application No. 665-2021) and is within the jurisdiction of this Court. The complaint and the original documents have been submitted digitally and have been identified today in accordance with the pre-summoning evidence by way of affidavit.

2. In light of the decision of the Hon'ble Supreme Court in A.C. Narayanan v. State of Maharashtra & Anr. (2014) 11 SCC 790, Full Bench, examination of the complainant upon oath for issuance of process is a matter of discretion of the Magistrate. In the considered opinion of this Court, there is no need to examine the complainant for the purpose of issuance of process. There is sufficient material before this Court to proceed against the accused. I hereby take cognizance of the offence under Section 138 of the NI Act.

(Shivam Gupta)
Judicial Magistrate First Class
(NI Act) Digital Court-02
PHC, New Delhi
22.10.2024

3. Accordingly, issue summons to accused **Zakir Hussain** for being the drawer and signatory to the impugned cheque(s). The summons are to be sent upon filing of PF-RC within one month from today, returnable on **09.06.2025**. The complainant is directed to file metadata form before filing of PF. The process server is directed to serve the summons by way of affixation, if premises are found locked or same could not be served personally or on any adult male member. To expedite service, the complainant is at liberty to serve the summons through speed post-approved courier, subject to filing internet generated tracking report of service on the next date of hearing. The complainant may also send summons through email and WhatsApp to the accused and file the requisite affidavit of service along with Certificate u-S 65B Evidence Act on the next date of hearing.

4. As per the guidelines laid down in Damodar S Prabhu Vs. Sayed Baba Lal H, AIR 2010 (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 a 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. The Ahlmad is directed to mention the official email id of the Court, the URL link as well as the permanent meeting number of video conferencing through CISCO Webex platform, on the form for issuance of summons. Complainant is directed to file PF and provide copies of the complaint and other necessary documents, within one month from today, failing which the complaint may be dismissed under Section 204(4), CrPC.

6. Renotify for appearance of the accused-furnishing of bail bonds-consideration on Notice under Section 251, CrPC on **09.06.2025**.

(Shivam Gupta)
Judicial Magistrate First Class
(NI Act) Digital Court-02
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7. The summons must accompany the copy of the complaint along with other supporting documents and the complainant will file the proof of the copy being supplied to the accused before this court on the NDOH.

(Shivam Gupta)
Judicial Magistrate First Class
(NI Act) Digital Court-02
PHC, New Delhi
22.10.2024