

HDFC Bank Limited VS Nanki Devi

Present:- Shri Mohinder Sharma, General Power of Attorney Holder of the complainant bank in person and represented by Shri Sachin Jangra Advocate.

Complaint presented today. It be checked and registered. Shri Mohinder Sharma, Power of Attorney Holder of the complainant bank himself appeared in his preliminary evidence as CW-1 and tendered his affidavit as Ex. CW-1/A and documents Ex. C-1 to Ex. C-6. Thereafter, complainant closed the preliminary evidence.

2. Arguments on the point of summoning of accused heard. While hearing the submissions of learned counsel for the complainant, it came to the notice of this Court that accused is not residing within the jurisdiction of this Court and accordingly, the procedure as provided under Section 202 of Cr.P.C. is required to be followed. Since, the complaint is totally based on documentary evidence, no benefit would be achieved by sending the matter to Police for investigation, particularly when the matter can be inquired by this Court itself.

3. From perusal of the evidence of the complainant both oral in form of sworn affidavit Ex. CW1/A and documentary evidence, at this stage, prima facie it is clear that Electronics Clearance System initiated by the accused in respect of discharge of ₹10433.34/- on the credit card was dishonoured with remarks "Funds Insufficient" on dated 5.8.2022 and intimation was received by the complainant on the same date. Legal notice

was sent to accused vide registered post vide receipt. As per the complainant the payment was not made by accused within 15 days of the receiving the notice by the accused.

4. Meaning thereby a prima-facie case under Section 25 of the Payment and Settlement Systems Act, 2007, is made out against the accused.

5. I have heard the learned counsel for the complainant and after perusing the record of the file, I am of the considered view that in the present case, the complainant executed the ECS as per standing instruction of the accused, but same was dishonoured. After receipt of information regarding dishonour of the ECS, he sent a legal notice to the accused for the payment of ECS amount, but despite the demand through legal notice, accused failed to make the payment within stipulated period.

6. In view of my above discussion, all the ingredients of Section 25(1)(c) of The Payment and Settlement Systems Act, 2007 are fulfilled and the evidence on record is sufficient to summon the accused. Therefore, accused be summoned to face trial under Section 25(1)(c) of The Payment and Settlement Systems Act, 2007 for **19.4.2023** on filing of PF, copy of complaint, Postal Cover etc. If the accused are not found at the stated address, summons be served by way of affixation. The complainant is at liberty to effect service through e-mail, as per law.

Date of Order: 6.10.2022
Neetika Nagpal Stenographer-III

(Harjot Kaur)
Judicial Magistrate - Ist Class, Hisar
UID NO . HR00521