

MHKO120005022023



**Sum.Cri.Case No.166/2023**  
(CNR No.MHKO120005022023)

**Order below Exh.1**

Perused the complaint, affidavit of the complainant and documents filed on record. Heard Ld. Counsel of complainant at length. It reveals from the record that, the complainant claiming legal debt in this response accused issued a cheque in question. Record shows that, the cheque dated 06/06/2023 for Rs.2,54,000/- bearing No.876654, of account maintained by State Bank of India, Branch Gargoti. Said cheque came to be presented for en-cashment with Vidarbha Konkan Gramin Bank, Gargoti Branch, Tal. Bhudargad. The cheque was returned dishonoured with a reason of “Insufficient Funds”. The memo bears such endorsement filed on record issued by the bank on 19/06/2023. The complainant issued notice dated 30/06/2023 through R.P.A.D. The notice returned with remark ‘सदर मा परगांवी पुढील पत्ता मिळत नाही, मुळ पत्त्यावर परत खाना’. In this regard I would like to rely upon judgement of Hon’ble Supreme Court in D.Vinod Shivappa V. Nanda Belliappa [Appeal (Cri.) 1255-1261 of 2004]. As per the directions given in said judgment, notice was deemed to be served in the present case. Despite service of notice, the accused failed to pay dues within stipulated period. The complainant filed present complaint on 19/08/2023. Therefore, the complaint is filed within limitation. Moreover, accused is residing within the jurisdiction of this Court. Hence, the inquiry under Section 202 of Cr.P.C. is not required in the present case. Ingredients of Section 138

of Negotiable Instruments Act are complied. Thus, to my mind, prima-facie there is sufficient evidence against the accused to issue process u/s.138 of Negotiable Instruments Act. Consequently, I am inclined to pass following order.

**ORDER**

Issue process against accused for the offence punishable u/s.138 of Negotiable instrument Act.

Date : 29/08/2023

( V.B.Mulla )  
Judicial Magistrate First Class,  
Gargoti