

ORDER BELOW/ EXH.1 IN C.C. No.2000059/SC/2025

Read. Heard.

2 Perused sections 4, 223, 225 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (the BNSS). The complainant has submitted affidavit under section 225 of the BNSS. The notice under section 223 of the BNSS has been issued and as per the **postal track report Exh.9 and postal receipt Exh.10**, it seems to have been **"Door Locked"**. Presumably, therefore, said notice has been addressed and evaded by the recipient/respondent/accused.

3 The offence under section 138 of the Negotiable Instruments Act is mainly based upon documentary evidence. It is summary trial in nature and a special statute. Prima facie, the complainant has already placed on record said documentary evidence. Therefore, in view of the ratio laid down by the Hon'ble the Apex Court **Indian Bank Association And Ors Vs. Union of India and Ors**, Writ Petition Civil No. 18/2013 the complaint can be considered as per available prima facie evidence on record.

4 It appears that the cheques have been presented with the bank within a period, as mandated, under Section 138 (a) of the Negotiable Instruments Act (Act). The payee/holder in due course of the cheque made demand for the payment by giving the notice within stipulated period of limitation. Whereupon, the drawer of the cheque has failed to make the payment within 15 days of receipt of the notice.

5 The complainant has pleaded that they have been operating and maintaining its bank account with the State Bank of



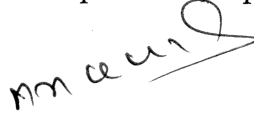
...2...

India, Mazgaon branch, Mumbai. The relevant stamp of the State Bank of India, Mazgaon branch, Mumbai do appear on the cheques and memos.

6 Hence, prima facie case has been made out against the accused to issue process and accordingly following order is passed.

ORDER

Issue process against accused under Sections 138 read with 142 of the Negotiable Instruments Act on requisite compliance.



(V.B. Gulve-Patil)

Date : 08.04.2025

Judicial Magistrate First Class,
20th Court, Mazgaon, Mumbai.