

Present: Sh. Gurpreet Singh, Ld. Counsel for the complainant.

Heard on the point of the summoning of the accused. Present complaint has been filed on 23.03.2026 i.e. after coming into force of the new criminal laws. The Proviso to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 provides that ***no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard***. However, the offence u/s 25 of the Payment and Settlement Systems Act is governed by a Special Statute i.e. the Negotiable Instruments Act, 1881 which provides its own procedure and the Hon'ble Supreme Court has recently clarified in the case titled as ***Sanjabij Tari vs. Kishore S. Borcar & Anr., Criminal Appeal No. 1755 of 2010, decided on 25.09.2025***, that there shall be no requirement to issue summons to the accused in terms of Section 223 of the BNSS i.e., at the pre-cognizance stage in complaints filed under Section 138 of NI Act. Consequently, the Proviso to Section 223 of the BNSS is not applicable in case of cognizance of offence under the Payment and Settlement Systems Act, 2007 as well.

In preliminary evidence, the complainant examined himself as CW1 and tendered into evidence his duly sworn affidavit Ex. CA (wherein he reiterated the facts as mentioned in the complaint on oath) along with documents Ex. C1 to Ex. C5 and thereafter closed his preliminary evidence vide a separate statement.

This court has heard the learned counsel for the complainant and have perused the case file minutely with his able assistance.

Perusal of the complaint as well as the preliminary evidence so available on record which includes copy of ECS mandate, return memo, copy of legal notice, postal receipt etc. prima facie shows that the instant complaint has been filed by the complainant within the period of limitation. In the present case, the accused is residing at a place beyond the jurisdiction of this court, therefore, the court is duty bound to conduct enquiry u/s 225 BNSS (Section 202 CrPC). Section 225 of the BNSS provides that any Magistrate on receipt of complaint of an offence of which he is authorized to take cognizance or which has been made over to him under Section 212 may, if he thinks fit, and shall, in case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either enquire into the case himself or direct an investigation to be made by the Police Officer or by such person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding.

However, the scope of enquiry u/s 225 BNSS in complaints u/s 25 of the Payment and Settlement Systems Act is limited. The court can only rely upon the preliminary evidence adduced by the complainant and the

documents attached with the complaint.

Accordingly, as per the mandate of Section 225 BNSS, the undersigned has enquired into the case herself and have scrutinized the documents carefully. On the basis of documents attached with the file and evidence tendered by the complainant in his preliminary evidence, this court is of the considered opinion that sufficient grounds are made out to summon the accused under Section 25 of the Payment and Settlement Systems Act, 2007. The detailed expression of opinion is avoided as it is no longer necessary in view of the observations of the Hon'ble Supreme Court of India in *U.P. Pollution Board vs. Mohan Meekan, 2000 (2) RCR (Criminal) 421* and reiterated in *Deputy Chief Controller of Import and Export vs. Roshan Lal Aggarwal, 2003 (2) RCR (Criminal) 110 (SC)*.

Accordingly, the accused is ordered to be summoned to face trial for the offence under Section 25 of the Payment and Settlement Systems Act, on filing of PF, copy of complaint etc. for 01.10.2026. Summons be sent through RC/AD as well as through ordinary process. Process server is directed to visit the house of the accused again and again till the service of summons. Further, summons be served preferably to the accused, however, in case, the accused refuses to take the summons, summons be affixed on the wall of the house of the accused. Dasti summons be also issued, if desired. List of witnesses be also filed forthwith and positively within 7 days, failing which complainant cannot seek any assistance from the court.

Date of Order: 14.08.2026
Pankaj-III*

(Ms. Kavita Garg)
Judicial Magistrate - Ist Class,
Ludhiana
UID No . PB0816