

HARSHARAN SINGH VS RAKESH BALI @ RISHU

Present: Complainant with counsel Sh. JHALMAN RAM Advocate

Heard on the application for condonation of delay in filing of complaint under section 138 of N.I. Act with the averments that the cheque in question is of dated 07.01.2020 and the last date of filing of the present complaint was dated 18.06.2020, however, due to lock down and Covid-19 all the courts are closed from 22.03.2020. Therefore, the present complaint is within limitation as per the guide lines issued by the Hon'ble Supreme Court in *sue moto* Civil Writ No. 3 of 2020.

Arguments heard on summoning to accused. The complainant has filed the present complaint on the allegations that the accused in order to discharge her legal liability issued cheque bearing No. 000036 dated 07.01.2020 amounting to ₹ 1,00,000/-, in favour of complainant, drawn in HDFC, Bank G.T. Road, Mahilpur, District Hoshiarpur. Accordingly, the complainant presented the said cheque in the bank which was received back dishonoured for the reasons "Funds Insufficient" vide memo dated 15.02.2020. Thereafter, the complainant got issued legal notice dated 20.02.2020 asking the accused to make the payment within a period of 15 days from the receipt of notice, but the accused has not returned the amount. Hence, the complainant has been constrained to file the present complaint.

2. In preliminary evidence, complainant himself stepped into the witness box as CW-1 and tendered his affidavit Ex.CW-1/A, along with documents Cheque Ex.C-1, memo Ex.C-2 legal notice Ex.C-3, postal receipt Ex.C-4 & Ex.C5 and closed the preliminary evidence.

3. From the perusal of oral and documentary evidence adduced on the file in preliminary evidence by the complainant this court find sufficient grounds to proceed against the accused Under Section 138 of Negotiable Instrument Act. Accordingly, the accused is ordered to be summoned to stand trial for the offence U/s 138 of Negotiable Instrument Act on filing of PF, list of witnesses and copies of complaint within 15 days for 25.08.2022 by the complainant. Summons be issued to accused through RC/AD as well as through ordinary process. Dasti summons be given, if requested.

Date of Order: 20.05.2022
*sunil shukla**

(Shilpi Gupta)
Sub Divisional Judicial Magistrate