

Order below Exh.1 in S.C.C. 31/2025

Vide order below Exh.1 dated 05.08.2025 notice under section 223(1) of BNSS was served on accused vide Exh.5. However, the accused is absent. In view of law laid down by the Hon'ble Supreme Court in Sanjabij Tari Vs. Kishore S. Borcar & Anr. MANU/SC/1336/2025 there shall be no requirement to issue summons to the accused in terms of section 223 of BNSS i.e. at the pre-cognizance stage. Hence, heard Ld. Advocate of the complainant on the point of issue process.

2. Firstly, from the contents of complaint and the examination of complainant on oath, it appears that, the cheque in question was given by the accused to the complainant towards legally enforceable debt or liability. Complainant appears to have made efforts to encash the cheque amount. There appears a Memo given by banker of accused that, the cheque in question is dis-honoured for the reason mentioned in it. Within stipulated time, complainant appears to have given mandatory notice to accused asking the accused to make payment of said amount within 15 days. As per complainant, even after the notice returned unclaimed, the accused has not made payment of cheque amount within said period. Thus, it appears that, the cause of action has accrued in favor of the complainant to file this complaint. This Court is certainly having territorial jurisdiction to take cognizance of and try this case. Resultantly, at this juncture all fundamental ingredients of offence punishable under section 138 of the Negotiable Instruments Act, 1881 are prima-facie appearing.

Hence, this is a fit complaint to issue process against the accused for said offence. In the result, following order is passed;

ORDER

As per section 227 of the Bharatiya Nagarik Surksha Sanhita, 2023 issue process and summons against the accused for the offence punishable under section 138 of the Negotiable Instruments Act, 1881.

Chiplun

Dt.21/11/2025

SD/-

(Y.C.Patil)

Judicial Magistrate First Class,
Chiplun

:-Certificate :-

I Affirm That The Contents Of This Order And The P.D.F. File Of This Order Are Same, Word To Word, As Per The Original Order.

Name Of Stenographer	Shri.M.E.Arekar
Name Of Court	Jt. C.J.J.D.& J.M.F.C.,Chiplun
Date Of Decision	21/11/2025
Order Signed By The P.O. On	21/11/2025
Order Uploaded On	21/11/2025