

ORDER BELOW EXH. 1 IN S.C.C.NO.265/2025.

In view of section 223 of BNSS notice was issued to the proposed accused to be heard before taking cognizance, though notice served on him, he is present but he has submitted that, he wants to contest this complaint. Hence, heard both Ld. Advocate.

2. The Hon'ble Supreme Court of India in Suo Motu Writ Petition (Crl.) No.2 of 2020 In Re: expeditious trial of cases under section 138 of N.I. Act 1881 held that, section 202 of the Cr.P.C. confers jurisdiction on the Magistrate to conduct an inquiry for the purpose of deciding whether sufficient grounds justifying the issue of process are made out. The amendment to section 202 of the Cr.P.C. made it mandatory for the Magistrate to conduct an inquiry before issue of process, in a case where the accused resides beyond the area of jurisdiction of the court. The Magistrate shall take evidence of the witness on oath in an inquiry conducted under Section 202 (1) for the purpose of issuance of process. Only in exceptional cases, the Magistrate may examine the witnesses personally. The evidence of witnesses on behalf of the complainant shall be permitted on affidavit. The evidence of witnesses on behalf of the complainant shall be permitted on affidavit. If the Magistrate holds an inquiry himself, in suitable cases, the Magistrate can examine documents for satisfaction as to the sufficiency of grounds for proceeding under Section 202.

3. 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. Perused the complaint supported with verification affidavit the accused is appears to be resident of Sawargav, Tal. Karjat, Dist. Raigad i.e. beyond the jurisdiction of this court. Also perused the documents annexed with list. Heard learned advocate for the complainant.

4. It reveals that, the complainant is a holder of cheque in due course. The complainant deposited the said cheque in his bank account for encashment which returned unpaid. The complainant issued notice to the accused within one month from dishonour of cheque and communicated about dishonor. Notice was served. However, the accused failed to pay cheque amount within stipulated time. Therefore, complainant has filed complaint within limitation.

5. Prima facie, the complainant has shown that he has fulfilled the ingredients of section 138 of N.I. Act against the accused. Complainant shows sufficient grounds and justifying that these are sufficient to the issue of process against accused. In this background, sufficient grounds are existed to proceed against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Hence, following order is passed.

ORDER

Issue process against the accused for offence punishable under Section 138 of Negotiable Instruments Act, 1881 as per section 227 of the B.N.S.S.,2023.

Sd/-

Place :- Chiplun

(Yuvraj Chandrakant Patil)

Date :29/01/2026

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	29/01/2026
Order Signed By The P.O. On	29/01/2026
Order Uploaded On	30/01/2026