

ORDER BELOW EXH.4

Verified on oath. Hence, read and recorded.

ORDER BELOW EXH 1.

Perused the complaint, the documents annexed thereto, and the verification statement of the complainant recorded under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Heard the complainant on the point of issuance of process.

2. On a careful reading of the complaint and the affidavit tendered by the complainant by way of verification on oath, it *prima facie* appears that the cheque in question was issued by the accused in discharge of a legally enforceable debt or liability. The complainant made due attempts to present the said cheque for encashment, which was dishonoured, as evidenced by the return memo issued by the banker of the accused, indicating the reasons for dishonour.

3. It further appears that within the statutory period, the complainant issued a demand notice to the accused calling upon him to pay the cheque amount within 15 days from the date of receipt of the notice. As averred in the complaint, the accused failed to make the payment within the stipulated period. Consequently, a cause of action arose in favour of the complainant to initiate proceedings under Section 138 of the Negotiable Instruments Act, 1881. This Court is vested with the jurisdiction to take cognizance of and try the said offence. *Prima facie*, all the essential ingredients constituting an offence under Section 138 of the Negotiable Instruments Act, 1881 are made out at this stage.

4. In view of the law laid down by the Hon'ble Supreme Court in ***Indian Bank Association & Others vs. Union of India & Others, (2014) 5 SCC 590***, the complainant has filed a detailed affidavit along with supporting documents, which are admissible in evidence after the issuance of process. Therefore, I find it appropriate to issue process against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

ORDER

1. Issue process and summons as per section 227(1)(a) of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the accused for the offence punishable under section 138 of the Negotiable Instruments Act, 1881.
2. Complainant to pay the process fees if not already paid.

Date - 29/10/2025

(Shubham G. Laturiya)
JMFC, Kankavali.