

Order below Exh. 1 in SCC No.2599/2023

Complainant on oath verified the complaint. Perused complaint, affidavit of evidence and record. He is duly authorized to file present complaint. Heard learned advocate for the complainant.

2. It appears from the record that on 05/10/2023 the disputed cheque bearing no.141016 issued for the amount of Rs. 54,461/- drawn by the accused on account maintained by him in Bank of India Branch Kadegao Sangli and the same were issued by the accused to the complainant. The disputed cheque was presented for the encashment for on 05/10/2023 by the complainant in Bank of Maharashtra, Branch Sangli,. The disputed cheque was dishonored and returned with an endorsement on return memo as '**FUNDS INSUFFICIENT**' on 10/10/2023.

3. Thereafter, the complainant issued demand notice on 17/10/2023. As *prima facie* appears that, this demand notice served to accused on 20/10/2023. The accused failed to make payment of disputed cheque within 15 days from 20/10/2023. The present complaint is filed on 07/11/2023.

4. In this case the accused is resident of area which is beyond territorial jurisdiction of this court. Hence, issue process was postponed as per Sec 202 of Code of Criminal Procedure, 1973 (in short CrPC) As per directions given by Hon'ble Supreme Court in the case of In Re: Expeditious Trial of Cases under Sec 138 of N.I. Act [Suo Motu Writ

Petition (Crl.) no. 2/2020], “in suitable cases, the Magistrate can restrict inquiry as per Sec 202 of CrPC to examination of documents without insisting for examination of witnesses”.

5. In the present case, documents along-with the complaint may be considered as evidence for purpose of inquiry under Sec 202 of CrPC. I have personally verified the complaint and perused of documents filed with it. It can be said that, they are sufficient for issuance of process against accused. Hence, inquiry as per Sec 202 of CrPC can be restricted to examination of documents. As, prima facie there appear sufficient grounds to proceed against the accused for an offence punishable under Section 138 Negotiable Instruments Act, 1881. Hence the order -

ORDER

Issue process against accused for an offence punishable under Sec 138 of Negotiable Instruments Act, 1881 vide Sec 204 of The Code of Criminal Procedure, 1973 returnable on Dt.

Sd/-

Date :- 04/01/2024

Place :- Sangli

(Divya P. Kale)
7th Jt. Judicial Magistrate
First Class, Sangli