

08.10.2025

Present: Ld. counsel for the complainant through VC.

Matter is listed for consideration.

As per the recent judgment of Sanjobij Tari Vs. Kishore S. Borcar & Anr. Crl. Appeal no. 1755 of 2010 passed by the Hon'ble Supreme Court of India, it has been held that NI is a special of as per the definition of Section 5 BNSS and there is no need to issue summons to the proposed accused at pre cognizance stage. There is a huge backlog of Section 138 cases and the provision of 223 BNSS causes an additional delay in disposal of the same.

Keeping in view, the said judgment this court is of the humble opinion that notice need not be issued to the proposed accused before taking cognizance.

Arguments heard on the point of summoning.

Record of the file perused. Following the law laid down in A. C. Narayanan Vs. State of Maharashtra & Anr. (2014) 11 SCC 790 and in view of complaint; documents produced with respect to return of cheque on dishonourment and service of legal demand notice; and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused for offence punishable under Section 138 NI Act.

Let summons be issued to the accused on filing of PF/RC/AD/ speed post, returnable on next date. Complainant is directed to file PF and take steps within one month including providing copy(ies) of complaint and related documents. Ahlmad is directed to issue the summons only after ensuring that the same has been done. The complainant is also apprised of the fact that at the time of filing first PF, he is required to fill the mandatory NI Act Complaint Meta Data.

Service be also effected on the email, WhatsApp message(s) and text message of accused person(s), as provided by the complainant and further subject to filing of report of service.

As per the guidelines laid down in the case titled as Damodar S. Prabhu Vs. Sayed Babalal H, (2010) 5 SCC 663, the accused is at liberty to file an application for compounding of the offence on the first or second date of hearing itself without imposition of cost. However, failure to do the same and seeking compounding at a later stage will entail a cost of 10% of the cheque amount. Same be mentioned on the summons.

Put up for appearance of accused, grant of bail and framing of notice on 26.03.2026.

(Ankit Solanki)

JMFC (NI Act), East/ KKD, Delhi/08.10.2025