

PCR 353/2026

The complainant has filed complaint against the accused for the offence p.u.s. 138 of N.I. Act. In support of case of the complainant, Special Recovery Officer of the complainant has filed an affidavit and also produced documents. The marshaling of documents placed by the complainant, it appears that the complainant has produced the cheque issued by the accused, endorsements issued by the bank, notice issued by the complainant through his advocate, postal receipt, postal acknowledgment and other documents.

The Special Recovery Officer of the complainant has filed affidavit in support of his case. The said affidavit is treated as examination in chief and he is treated as PW-1. The complainant has produced as many as 16 documents which are marked and exhibited as Ex.P-1 to 16, 1(a). As per section 223 of BNSS, the issue of notice to accused is required before taking cognizance. However, the N.I. Act is special statute and sec 142 of N.I.Act prescribes procedure for taking cognizance. Therefore, special Act prevail over general law by virtue of section 5 of BNSS, hence the procedure mentioned in the N.I. Act u/sec 142 is followed to take cognizance as per the Judgment of Hon'ble Apex Court reported in **2025 SCC Online SC 2069 (Sanjabij Tari V/s. Kishore S. Borcar and another)**

On careful dissection of dates and events mentioned in the affidavit of the Special Recovery Officer of the complainant and in the Ex.P-1 to 16, 1(a) produced by the complainant, it appears

that the complainant has complied statutory requirements as contemplated under proviso (a) to (c) of section 138 of N.I. Act and complaint is filed within time stipulated under section 142(1) (b) of N.I. Act. Further, on conglomeration of entire material available on record, it appears that there are sufficient grounds to proceed against the accused. Ergo, cognizance is taken for the offence p/u/s 138 of N.I.Act. The material depicted that, there are sufficient grounds to proceed against the accused. Hence, office is directed to register criminal case against the accused for the offence p.u.s.138 of N.I. Act.

Issue summons to accused for the offence p.u.s.138 of N.I. Act returnable by 12.10.2026.

Sd/-
(Manu B. K.)
Senior Civil Judge & JMFC.,
Belthangady.