

PCR No.82/2026

Dtd: 24/07/2026

Sworn statement of the complainant. By Smt.SS adv for complainant:

I say that I am the complainant in the above case and I know the facts of the case. I have filed my sworn statement by way of affidavit and the same is prepared by my advocate at my instructions and it bears my signature. I have produced the following documents along with the complaint and the same may be marked as Exhibits.

- 1) Cheque dtd:29.04.2026 bearing No.000001 drawn on Kotak Mahindra Bank, R.V.C.Ed campus, 8th mile Mysuru road, Bengaluru Branch is marked as Ex.P-1,
- 2) Bank memo dtd:02.05.2026 as Ex.P-2.
- 3) Legal notice dtd:08.05.2026 is marked as Ex.P-3,
- 4) Postal receipt is marked as Ex.P-4,
- 5) Postal Acknowledgment is marked as Ex.P-5.

Hence I pray that this honorable court may please to take cognizance of the offence punishable U/sec.138 of NI Act against accused and issue process against accused.

(Read over and explained the contents to the deponent in the language known to the deponent.)

I ACJ & JMFC., K.R.NAGARA

ORDER U/SEC.142 OF NI Act

Complainant has filed the present complaint as against the accused for the offence punishable U/sec.138 of NI Act. Complainant has filed his sworn statement by way of affidavit by re-iterating the complaint averments. The complainant has also got marked Ex.P-1 to Ex.P-5 documents.

From 01.07.2024 the BNSS has replaced the Cr.P.C. By an notification dated 16.07.2024 in official gazzete No.CG-DL-E-16072024-255467 the Ministry of Law and Justice has notified that wherever any reference is made to the Cr.P.C in any Act, Rules and regulations, Ordinance etc., the same shall be read as Bharatiya Nagarik Suraksha Sanhitha (in short BNSS). The present private complaint is filed U/Sec.223 of BNSS. First proviso appended to section 223 of BNSS mandates to hear the accused before taking cognizance of any offence alleged in the private complaint. Negotiable Instrument Act is a special enactment. Section 142 of N.I Act commences with non obstante clause and it states that irrespective of the provisions contained in Cr.P.C (present BNSS), the court shall proceed to take cognizance of the offence if the conditions mentioned therein are fulfilled. N.I Act being the special statute, it over rides Cr.P.C (present BNSS). Section 142 of N.I Act does not mandates hearing of the accused before taking cognizance. Adding further, in a decision of the **Hon'ble Apex court reported in (2018) 13 SCC 663 in the case of N.Harihara Krishnan Vs. J.Thomas** at para No.27 the Hon'ble Apex court has held that *"Therefore, Parliament declared Under*

Sec.142 that the provisions dealing with taking cognizance contained in the Cr.P.C should give way to the procedure prescribed Under Sec.142. Hence the opening of non obstante U/sec.142". Therefore, there is no necessity to issue notice to the accused under first proviso of section 223 of BNSS in N.I Act before taking cognizance.

On careful perusal of the complaint and affidavit as well as the documents produced by the complainant, prima facie it appears that there is a case made out to proceed against the accused. On perusal of the materials available on record, I am of the considered view that there are good grounds and sufficient materials available to proceed against the accused for the offences punishable U/Sec.138 of NI Act. Accordingly, I proceed to pass the following:

ORDER

Acting under section 142 of N.I Act cognizance is taken as against the accused for the offence punishable U/Sec. 138 of N.I Act.

Office is directed to Register the case as Criminal Case in Register No.III.

Office is hereby directed to keep the original cheque in the safe custody.

Issue summons to the accused through court process as well as by RPAD if required PF and complaint copy is furnished.

Returnable by: 16/09/2026.

I ACJ & JMFC., K.R.Nagara