

ORDER BELOW EXHIBIT - 1.

Read the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, ("the Act" for short), affidavit under Section 145 of the Act and the documents annexed therewith.

Perused the complaint with the documents. As per the direction of Hon'ble Supreme Court in Indian Bank Association & Others Vs. Union Of India & Others. (2014) 5 SCC 590 on the day when the complaint is filed, court shall scrutinize the complaint and if the complaint is accompanied by the affidavit & the documents and if they are found to be in order, the court can take cognizance and direct issuance of process.

Further, the Hon'ble Supreme Court in Suo Moto writ Petition (Cri.) No. 2/2020 has also held that when accused resides beyond the territorial jurisdiction of the Court, an inquiry, on receipt of the complaint, shall be conducted, which may be held on the basis of affidavit and in suitable case, the Court can restrict the inquiry to examination of documents without insisting for examination of witness. Meaning thereby, if the affidavit and examination of documents filed with the complaint are found in order, cognizance can be taken without examining witness, relying on the affidavit & the documents.

Hence as per the direction of Hon'ble Supreme Court as above this court inquired and found that accused resides beyond the territorial jurisdiction of this court but after perusing the complaint at the affidavit of complainant it appears that cheque issued by the accused has been deposited by the complainant in his account at Ahmedabad. Further as per section, notice has also been issued by the complainant but there is nothing on record which will show that the amount of cheque has been paid by the accused and a bare reading of the complaint, affidavit in evidence and the documents shows that there is prima facie case against the accused and considering section 142 of Negotiable Instrument Act, 1881 it appears this court has jurisdiction to take cognizance. Therefore after perusing the entire record along with the complaint and after inquiry, there is prima facie case for the offence under section 138 R/W 141 of N.I. Act against the Accused No.2.

Accordingly, the complaint is ordered to be registered as Criminal Case. Summons is ordered to be issued against the accused No.2. The complaint is ordered to be dismissed against accused No.1.

Summons be issued, in the prescribed form as per the direction of the Hon'ble Apex Court in Indian Bank Association (supra) and circular issued by the Hon'ble Gujarat High Court. In addition to normal mode of service, the complainant is also permitted to serve the summons through R. P. A. D. and email. In case of service by email, the complainant is required to declare that the email address is correct.

NEXT DATE :- 12/08/2025

Date : 09/06/2025.
Ahmedabad.

(A. P. Der)
23rd Additional Chief Judicial Magistrate
Court No. 27, Ahmedabad.
(JUDGE CODE NO.GJ00999)