

IndusInd Bank vs Sukhjit Singh NIA 1108-22

Present: Sh. Ankush Sharma, Advocate for the complainant

Heard on point of summoning. As the accused is resident of other City, as such, the mandate of section 202 Cr.P.C requires that before issuance process to such an accused who reside beyond jurisdiction of the court an inquiry/investigation is required is to be held and satisfaction to this effect as to be recorded. However, the offence U/s 138 of N.I Act is purely technical in nature and governed by a Special Statute. In my opinion, an inquiry U/s 202 Cr.P.C is unwarranted in an offence U/s 138 of N.I Act as there is no scope of investigation of police in such offence. I am supported in my view by obiter dicta given in Criminal Miscellaneous Number M-14352/2009 in case titled as **Apex Health Care Pvt Ltd and Others VS M/s Alchemist Hospitals Ltd. (Punjab & Haryana High Court)**. In the said judgment it has been held that:

“The offence U/s 138 of N.I Act is non-cognizable offence as per Section 2(1) Cr.P.C in which police office has got no authority to arrest without warrants. By necessary implication from the language used mean by amended Section 202 Cr.P.C, it is apparent that the provisions of Section 202 Cr.P.C enabling a Magistrate to hold an inquiry and postponed the issuance of process is not applicable to the proceeding under U/s 138 of N.I Act”. As such, the inquiry U/s 202 Cr.P.C in the present case is dispensed with.

Complainant, stepped into the witness box as CW1 and reiterated the whole sequence of event in minute details through his affidavit Ex.CW1/A, as got detailed by him in his written complaint. He has also placed on record documents i.e. Ex.C1 to Ex.C6.

After perusing the statement of complainant and going through the documents placed on record by him, this Court is of the considered opinion that there are sufficient grounds to proceed against the accused under Section 138 of Negotiable Instrument Act. No detailed reason is required to be given for summoning of the accused in view of the law laid down by the Hon’ble Apex Court in the case of **U.P. Pollution Central Board Vs. M/s Mohan Meakins Ltd. And other 2000(2) RCR 421** and reiterated recently in **DV CCI and E vs. Roshan Lal Aggarwal 2013(2) RCR Criminal 110(SC)**.

Similarly, the Hon’ble Apex Court in case titled as **Kanti Bhadra Shah and Anr. Vs State of West Bengal 2000(1) SCR Page 27**, has held that :

“At the summoning stage recording of detailed reasons are not required.”

Accordingly, the accused is ordered to be summoned to face trial for above said offence for 05.12.2023 on filing of PF/RC. Dasti summons also be issued if desired.

Dated:12.09.2023

Nirmala Adhikari

(Mukesh Kumar Singla)

JMIC/SAS Nagar

UID No.PB0475