

CC NI ACT / 3417/2026 MUNAPPURAM FINANCE Vs. MONISH

07.04.2026

Fresh case received by way of assignment. It be checked and registered.

Present: Sh. Sandeep, Ld. counsel for the complainant through VC.

In view of the law laid down in *Ashok Vs. Fayaz Ahmed (2025)* passed by Hon'ble Karnataka High Court and same has been agreed by Hon'ble Supreme Court while discussing other aspects for speedy disposal of the matters u/s 138 NI Act in *Sanjabij Tari Vs. Kishore S. Borcar & Ors. (2025) INSC 1158, Manu/SC/1336/2025*, it has been decided that Negotiable Instruments Act is a Special Act and no pre-cognizance notice to the accused u/s 223 BNSS is required for complaints filed u/s 138 NI Act since it is a special law and its own specific procedure takes precedence.

In view of the same, arguments heard on behalf of the complainant for the purpose of summoning.

I have gone through the complaint and the documents annexed along with the same.

Cheque no.000007 dated 20.11.2025 was presented in the bank for payment, which was returned as dishonoured for the reason 'Advice not received' on 05.12.2025. The complainant had sent a legal notice on 22.12.2025 to the respondent by post which has been delivered. The drawer of the cheque/respondent failed to make the payment within 15 days thereof. Thereafter, a complaint has been filed. Therefore, prima facie, the offence under Section 138 NI Act appears to be committed.

The offence is within the jurisdiction of this Court. Therefore, I take cognizance of the offence under Section 138 NI Act.

In matter of “*A. C. Narayanan Vs. State of Maharashtra & Anr.*” (2014) 11 SCC 790, Full Bench of Hon'ble Supreme Court of India has held that “...it is a matter of discretion and the Magistrate is

not bound to call upon the complainant to remain present before the court and to examine him upon oath for taking decision whether or not to issue process on the complaint under Section 138 of the NI Act. For the purpose of issuing process under Section 200 of the Code, it is open to the Magistrate to rely upon the verification in the form of affidavit filed by the complainant in support of the complaint under Section 138 of the NI Act...”

The Section 200 of the Cr.P.C. is pari-materia with the Section 223 BNSS. Accordingly, the aforesaid directions given in A.C. Narayanan (supra) can be applied to Section 223 BNSS as well.

Complaint, affidavit of evidence and documents considered in light of above cited judgment. Inquiry under Section 225 BNSS has been conducted on the basis of the documents tendered by the complainant in evidence. In opinion of this Court, there is no need to examine the complainant's evidence for purpose of issuance of process. In view of complaint, documents produced and verification in the form of affidavit of evidence, there are prima facie sufficient grounds for proceeding further against **accused Monish** for offence punishable under Section 138 NI Act.

Hence, issue summons against the accused person(s) on P.F./R.C./Approved Courier for NDOH. The complainant can provide email address of accused person(s), if any for service. The service of summons through whatsapp message(s) and text message(s) is also permitted provided the complainant files an affidavit to the effect that number on which the said message(s) are sent is/are of the accused person(s) and further subject to filing of report of service. For felicitation of the same, dasti summons are permitted.

The process server is directed to serve the summons by way of affixation, if premises found closed or same could not be served personally or on any adult male member.

As per the guidelines laid down in the case of Damodar S. Prabhu Vs. Sayed Baba Lal, (2010) 5 SCC 663, Ahlmad is directed to mention in the summons that “accused can make an application for compounding of offence at the first and second hearing of the case and if such an application is made, compounding may be allowed by the court without imposing any cost on the accused.”

Complainant is directed to file PF and take steps within 10 days including providing copy(ies) of complaint otherwise the complaint may be dismissed U/s 204(4) Cr. P.C.

Put up the matter for report/appearance of the accused on
10.08.2026.

(Seema Meena)
JMFC (NI Act)-04, SED
Saket, New Delhi/07.04.2026