

CNR No. DLNE020159252022

CC No. 1145/2022

Shriram Transport Finance Co. Ltd. Vs. Subodh Kumar

PS: Bhajan Pura

17.11.2022

(VC Proceedings through CISCO Webex)

Fresh complaint received through e-filing and the same is checked and registered.

Present: Ld. Counsel for the complainant alongwith AR of complainant.

Ld. Counsel for the complainant submits that he has handed over the original file alongwith other related documents to the Reader-cum-Ahlmad of this court. The said fact has been confirmed by the Reader-cum-Ahlmad of this court. He is directed to keep the file in her safe custody.

1. Arguments on behalf of the complainant heard on point of cognizance as well as summoning.
2. This is the complaint filed by the complainant M/S Shriram Transport Finance Ltd. through its AR with related documents attached such as Cheque in question which got dishonored, Return Memo and legal demand notice to the accused annexed with delivery proof, praying this court for taking cognizance U/Sec.142 of Negotiable Instruments Act, 1881 for the offence punishable U/Sec. 138 of Negotiable Instruments Act, 1881.
3. Records of the present case perused. It is alleged by the Complainant that Accused **Subodh Kumar** had issued a cheque bearing no. 045122 dated 19.07.2022 for the amount of Rs. 6,10,000/- (Rs. Six Lac Ten Thousand), drawn on Bank of Maharastra, Ghaziabad to the complainant to discharge his liability for the repayment of vehicle loan

taken by the accused from the complainant and on the presentation, the same was dishonored due to “**Insufficient Funds**” vide memo dated 27.07.2022. Therefore, legal demand notice dated 09.08.2022 was sent to the accused by the complainant on 25.08.2022. Despite deemed service of said notice, accused has failed to make the payment as per provisions of Negotiable Instruments Act, 1881.

4. After considering the present complaint, attached documents and the evidence of AR of complainant by way of affidavit and the present complaint has been filed within the period of limitation, I am satisfied to proceed against the accused on the basis of evidence affidavit of AR of complainant placed on record as per the requirement of section 202 of Cr.PC and further I am of the view that Prima facie case is made out for the offence punishable U/Sec. 138 of Negotiable Instruments Act, 1881, therefore I take the cognizance in the present case for the offence punishable U/Sec. 138 of Negotiable Instruments Act, 1881.

5. Following the law laid down by Hon’ble Supreme Court of India in *A.C.Narayan Vs. State of Maharashtra (2014) 11 SCC 790*, Complaint, evidence by way of affidavit of the complainant duly attested by the Oath Commissioner (as permitted by sec.145 of NI Act, 1881) and other related documents considered, the formal examination of complainant again in the court on oath at this stage is thereby dispensed with since the evidence of complainant by way of affidavit is already attached and duly considered also for the purpose of section 202 of Cr.PC. Therefore, this court is of opinion that prima facie there is sufficient material to proceed against the accused **Subodh Kumar** (as provided in the memo of parties).

6. Summons be issued against Accused **Subodh Kumar** (as provided in the memo of parties) through all available modes including speed post, E-mail and What’s App on the mobile number and E-mail ID of accused (if

provided by complainant) for appearance through Video conferencing via link available on website/mentioned on summon upon filing of PF/RC. Ld. Counsel for complainant directed to take the copy of postal receipt from Nazarat Branch and to file tracking report alongwith certificate under section 65 B of Indian evidence Act on the NDOH.

7. Counsel for complainant/complainant is also directed to fill the Meta Data form and submit along with PF/RC.

8. The process server is also directed that in the event of house/office/premises is found to be locked/refused to accept the service/any other contingency of such a nature, the process be served through affixation.

9. As per the guidelines laid down as in the case titled as “**Damodar S. Prabhu Vs. Sayed Babalal H**”, AIR 2010 SC 1907, Reader-cum-Ahlmad is directed to make a mention on the summons issued against the accused (by adding separate sheet, if required) that “accused can make an application for compounding of the 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 costs on the accused.”

10. Reader-cum-Ahlmad is further directed to mention the official email ID and Video Conferencing link of this court on the summons.

PF be filed within fifteen working days.

Matter be put up for appearance of accused/furnishing of Bail Bond and framing of notice on **27.01.2023**.

At request of Ld. Counsel for the complainant, summons be given *dasti* also.

(NIDHI BALA)
MM/NI Act/Digital Court;
North-East/KKD/17.11.2022