

NACT-103-2021

Mukesh Goyal Vs Pawan Kumar etc

Present: Complainant with Sh. V.K.Goyal, Advocate.

One CW is present and examined. No other CW is present.

Thereafter, complainant closed his preliminary evidence.

Heard. By way of instant complaint, complainant has sought prosecution of accused for the offence under Section 138 of Negotiable Instruments Act with the grounds that accused had issued cheque no. 074905 dated 30.06.2021 worth of Rs.1,70,000/-drawn at PNB Bank, Branch Budhlada in favour of complainant to discharge his debt/liability, which was dishonored by the bankers of accused and returned vide memos by bankers of complainant with the remarks of "Exceeds arrangement".Mandatory notice of 15 days under Section 138 of N.I. Act was issued, despite which accused did not make any payment.

The complainant examined himself as CW-1 and tendered his affidavit Ex CW-1/A, original cheque dated 30.06.2021 as Ex C-1, memo dated 30.09.2021 as Ex C2, legal notice dated 28.10.2021 as Ex. C3, postal receipts as Ex. C4 and Ex. C5, attested copies of account ledger as Ex. C6 and Ex. C7, copy of receipts and bills as Ex. C8 to Ex. C17, certificate under Section 65 of Indian Evidence Act as Ex. C18.

From the unrebutted testimony of complainant, prima facie, it is apparent that accused has committed an offence under Section 138 of N.I. Act as cheque was dishonored on the ground of payment stopped by drawer. Let accused be summoned to face trial under Section 138 of Negotiable Instruments, Act on filing of PF/Copy of complaint for 12.08.2022.

Ahlmad is directed to issue notice to the accused with specific averments mentioned therein that in case accused tenders the cheque amount along with 10% costs, within period of 15 days from his appearance in the

Court, the present offence would be compounded and he shall be acquitted of the offence for which he has been summoned in accordance with with judgment rendered by Supreme Court, in case tilted as **Damodar S Prabhu Vs Sayed Babalal H Criminal Appeal no. 964-966 of 2010**(Arising out of SLP(Crl) NO. 6370-6372/2007), decided on 03.05.2010.

Pankaj Verma, PCS
SDJM/ Budhlada
(UID PB:0314)

Date of Order : 06.06.2022
Shelly