

Perused the Complaint, original cheque and accompanied affidavit and documents.

On 10.08.2026, the Complainant has filed Complaint against the Accused U/sec. 223 of BNSS for the offence punishable U/sec. 138 of NI act. The Complaint annexed with following documents, viz:-

1. affidavit,
2. original Cheque No. 093470, dated 05.06.2026,
3. endorsement dated 05.06.2026,
4. Tax invoice receipt dated 05.06.2026
5. a postal receipt dated 30.06.2026,
6. office copy of legal notice dated 30.06.2026.

7. RPAD acknowledgement dated 03.07.2026

Cheque No. 093470, dated 05.06.2026 was presented for encashment on 05.06.2026 was returned with endorsement dt: 05.06.2026 "Funds insufficient".

The Complainant in order to prove of delivery and date of delivery of the statutory notice has produced a postal receipt dated 30.06.2026, office copy of legal notice dated 30.06.2026, RPAD acknowledgement dated 03.07.2026.

On careful scrutiny of the Complaint dt 10.08.2026. accompanied affidavit and documents. The Complaint met the requirements prescribed U/sec. 138(a) to (c) and sec. 142 (1)(b) of NI act -1881 and the Complaint, accompanied affidavit and documents are found in order.

The Hon'ble Supreme Court of India in Sanjabij Tari V/s Kishore S. Borcar, 2025 SCC online SC 2069 and Hon'ble High Court of Karnataka, Bengaluru in Ashok V/s Fayaz Aahmad, 2025 SCC online KAR 490 have taken the view that since Negotiable Instrument Act is a special enactment, there is no need for the magistrate to issue summons to the accused before taking cognizance (U/sec. 223 of BNSS) of Complaints filed U/sec. 138 of NI act.

Affidavit of the complainant is treated as sworn statement.

Hence, as per the directions issued by the Hon'ble Supreme Court of India in Indian Bank Association and others V/s Union of India and others, (2014)5 SCC 590., in Paragraph No. 23.1. Cognizance of the Complaint is taken and office is directed to register Criminal case against the accused and issue summons to the accused in the mode known to law, If copies of Complaint, accompanied affidavit and documents are furnished and PF is paid.

The summons shall clearly specify that the Accused has option to pay the cheque amount at the initial stage and compound the matter in accordance with directions laid down by the Hon'ble Supreme Court of India in Sanjabij Tari v. Kishore S. Borcar (2025 SCC OnLine SC 2069).

11.08.2026

V Addl. Civil Judge & JMFC.,
Shivamogga