

YES BANK LTD VS KULDEEP SINGH PAVAR

Present: AR for complainant in person with Sh. Hari Kishan, Advocate.

Order:

AR for the complainant has appeared and tendered his affidavit Ex. CW1/1A alongwith documents Ex. CW1/1 to Ex. CW1/6 (colly) in his preliminary evidence, and thereafter, he closed his preliminary evidence.

Arguments advanced on the point of summoning of accused.

The present complaint has been filed under Section 25 of Payments and Settlement Systems Act, 2007. Briefly stated, the case of the complainant is that the accused has approached the complainant for a loan. While availing the loan, the accused agreed to repay the loan through installments by way of Electronic Clearing Service (ECS). However, the ECS transfer could not be executed due to the default of the accused. The complainant received intimation of the dishonour. Despite legal notice issued by complainant seeking payment of ECS amount and lapse of statutory period of 15 days from the date receipt of legal notice, accused has/have failed to make the payment. Hence, the present complaint.

I have gone through the complaint and the affidavit and documents tendered in preliminary evidence. Perusal of the affidavit and documents reveals that prima facie, offence is made out against accused under Section 25 of Payments and Settlement Systems Act, 2007.

The complaint is filed as per territorial jurisdiction and well within limitation period.

It has been held by the Hon'ble Supreme Court in U.P. Pollution Control Board Vs. M/s Mohan Meakins Ltd. (2000) 3SCC 745, that there is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. Same was reiterated in Jindal Cotex Ltd. Vs. M/s Vinod Cotton Corporation Criminal M.M.-29805-2016. DOD 27.10.2017 by Hon'ble Punjab and Haryana High Court.

Keeping in view the above stated facts, let notice to the accused be issued by all modes except publication on filing of PF, RC, copy of complaint etc. within seven days from today for **04.10.2023**. Summons be given dasti, if so desired.

(Vikash)
JMFC/Gurugram/12.01.2023
UID No. HR-0440