

47CC NI ACT/13755/2024
DLCT021058992024
MUTHOOT FINANCE LTD
Vs.
SUSHANTA SAMANTA

12.09.2025

Present : Sh. Rishabh Shukla, AR for the complainant.

An application seeking substitution of AR filed alongwith the relevant SPA. Application is taken on record. In view of the aforesaid, AR Rishabh Shukla, is substituted on behalf of complainant with no change as to facts and documents. PSE evidence be filed on the next date of hearing.

Speed post courier received back with remark “unclaimed”.
Tracking report taken on record.

It is deemed service.

Since none has appeared on behalf of proposed accused, therefore, the effective compliance of proviso of Section 223 BNSS have been duly made.

Submissions heard. Record perused.

The Hon’ble Supreme Court in the decision reported as **A.C. Narayanan vs. State of Maharashtra (2014) 11 SCC 790** has held as under,

“29. From a conjoint reading of Sections 138, 142 and 145 of the N.I. Act as well as Section 200 of the Code, it is clear that it is open to the Magistrate to issue process on the basis of the contents of the complaint, documents in support thereof and the affidavit submitted by the complainant in support of the complaint....

...33.4 In the light of Section 145 of the NI Act, 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 and the Magistrate is neither mandatorily obliged to call upon the complainant to remain present before the Court, nor to examine the complainant or his witness upon oath for taking the decision whether or not to issue process on the complaint under Section 138 of the NI Act.”

Similar directions have been issued in **Indian Bank Association & Ors. vs. Union of India (2014) 5 SCC 590 and Rajesh Agarwal vs. State (2010) 171 DLT 51.**

On consideration of the complaint, annexed documents and the verification affidavit of the complainant, this Court is of the opinion that

prima facie there are sufficient grounds for proceeding against the accused mentioned, I hereby take cognizance of the offence under Section 138, Negotiable Instruments Act, 1881. There is no requirement for examination of the complainant or witnesses for purpose of issuance of process in view of the above-mentioned directions of the Hon'ble Apex Court and Hon'ble Delhi High Court. In terms of inquiry conducted under Section 202 CrPC, all the statutory requirements have been complied with. The complaint is filed within the period of limitation as prescribed under Section 142(1)(b) of the NI Act.

Let **accused SUSHANTA SAMANTA** be summoned on filing of pf, rc/ speed post/ approved courier service/e-mail within 30 days for NDOH.

Complainant is directed to place the tracking report of summons sent through speed post on record on the next date. In the event the house/office/premises is found to be locked/refusal to accept the service/any other contingency the process be served through affixation in terms of Section 65, CrPC.

As per the guidelines laid down as in the case titled as Damodar S. Prabhu Vs. Sayed Babalal H, AIR 2010 (SC) 1907, 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."

Re-list the matter for **23.01.2026** for further proceedings.

(Ravisha Sidana)
JMFC, NI Act-06,
Central District, THC
12.09.2025