

17 CC NI ACT / 7567/2026 Fingrow Capital Private Limited Vs. RAJNI KUNDI /0
(Saket) Charge
13.03.2026

Fresh complaint received by way of assignment. It be checked and registered.

Present: Sh. Jitendra Kumar Singh, Ld. Counsel for the complainant.

The present complaint is filed for offence punishable under Section 138 Negotiable Instruments Act. Complaint, affidavit of evidence and other annexed documents perused wherein cheque bearing number 806629 dated 01.01.2026 drawn on ICICI Bank was dishonoured for reason "Funds Insufficient" vide return memo 02.01.2026. Thereafter, legal demand notice dated 03.01.2026 was issued to the proposed accused.

Prima facie, there are sufficient grounds for taking cognizance of the offence under section 138 NI Act. I take cognizance of the said offence under Section 138 of Negotiable Instruments Act.

In matter of "**A. C. Narayanan Vs. State of Maharashtra & Anr.**" (2014) 11 SCC 790, **Full Bench of Hon'ble Supreme Court of India** has held that "*...it is a matter of discretion and the Magistrate is not bound to call upon the complainant to remain present before the court and to examine him upon oath for taking decision whether or not to issue process on the complaint under Section 138 of the NI Act. For the purpose of issuing process under Section 200 of the Code, 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...*"

Complaint, affidavit of evidence and documents considered in light of above cited judgment. In opinion of this Court, there is no need to examine the complainant's evidence for purpose of issuance of process. In view of complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused for offense punishable under Section 138 Negotiable Instruments Act.

Accused no. 1 is signatory of the cheque in question and as per the documents examined, prima facie case is made out against the accused no. 1 only.

Hence, **summons be issued against the accused no. 1 only on P.F./R.C./Approved Courier for 28.05.2026.**

No case is made out against accused no. 2. Accordingly, he is dropped from array of parties.

The complainant is also at liberty to serve the accused through E-mail/whatsapp/text message provided the complainant files an affidavit to the effect that the email and number on which the said message(s) are sent is/are of the accused person(s) and further subject to filing of report of service. For facilitation of the same, *dasti* summons are permitted.

The process server is directed to serve the summons by way of affixation, if premises found closed or same could not be served personally or on any adult male member. An endorsement be also made that if application for compounding at first or second hearing is made the court may pass appropriate orders at the earliest as per judgment of **Damodar S. Prabhu; (2010) 5 SCC 663**. Complainant is directed to file PF and take steps within 15 days including providing copy(ies) of complaint otherwise the complaint may **be dismissed** as per law.

(ANKITA BHATIA)
JMFC (NI Act) - 03
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