

HDB Financial Services Ltd. Vs

Present: Ms. Nidhi Sharma, learned counsel for complainant.

Arguments on point of summoning of accused under Section 25 of The Payments and Settlement Systems Act, 2007. Heard.

While hearing the submissions of Counsel for Complainant, it came to the notice of this Court that accused is not residing within jurisdiction of this Court and accordingly, the procedure as provided under Section 225 of BNSS is required to be followed. Since the complaint is totally based on documentary evidence, no benefit would be achieved by sending the matter to police for investigation, particularly when matter can be enquired by this Court in view of the judgment passed by the Hon'ble Apex Court in case **Sunil Todi & Ors. Vs State of Gujarat & Ors vide judgment dated 03.12.2021(SC-2021)**. Therefore, the tendering of documents by way of an affidavit along with other documents is hereby allowed by examining CW-1 as witness for the purpose of Section 225 of BNSS. In the present case, accused has issued Electronic Clearance System (ECS) instructions in favour of complainant, in order to discharge his legally enforceable debt, which was returned dishonoured vide **Memo Ex.C3/CW1**. Thereafter, the complainant personally approached the accused and also served a **Legal Notice Ex.C4/CW1** through registered post demanding the payment of ECS installment but the accused failed to repay the amount within stipulated time period. Perusal of record reflects that the complaint within prescribed period of limitation, and the Court is having territorial jurisdiction to try the instant complaint.

Further, in view of the law laid down by **Hon'ble Supreme Court in case cited as "UP Pollution Board Vs. Mohan Meaken Ltd. 2002(2) RCR (Criminal) 421"** and **"Deputy Chief Controller of Imports and Exports Vs. Roshan Lal Aggarwal 2003(2) RCR (Criminal) 110"** the detailed expressed opinion is avoided as it is no longer necessary.

In view of the above discussion, accused is summoned for alleged commission of offence **u/s 138 of NI Act, 1881**. Summons against accused through ordinary process as well as through registered post bearing proper, correct and complete address of the accused for effective and expeditious service of process without delay, along with the requisite process fees, copy of complaint, list of witnesses etc. forthwith and positively within 7 days, failing which, the complainant cannot seek any assistance from this Court, furthermore it may be deemed/presumed that complainant is not interested for the effect prosecution and pursuance of the instant complaint and Court may proceed under the provisions of **Section 227 of BNSS (Chapter XVII) and as to dismissal of the instant complaint due to non-prosecution under Section 223 of BNSS.** Now the case be adjourned to **18.09.2026**. Dasti may also be given, if required. Complainant is directed to file PF, RC, copy of complaint etc. Complainant is also at liberty to serve the summons by electronic means (email/mobile/whatsapp etc.) as per rules and shall file separate affidavits therefore by verifying the "electronic means particulars" are of accused and that service has been effected through the electronic medium.

Date of Order: 14.08.2026
Shalini, Stenographer*

(Ms. Jaspreet Kaur)
Judicial Magistrate Ist Class,
Chandigarh
UID No . PB00657