

19 CC NI ACT

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1411/2026

Hindon Mercantile Limited Vs. SKS Cleantech BS Private Limited

/0 (Subhash Place)

12.05.2026

Present: Sh. Shaurya Gupta and Ms. Rashmi Kumari, Ld. counsels for complainant.

Ld. counsel for complainant has filed master date of accused company with certificate U/s 63 BSA.

Ld. counsel for complainant submits that the sanction letter of the loan at page no. 94 shows that proposed accused no. 3 was personal guarantor and key managerial personnel. He further submits that shares of proposed accused no. 3 were also pledged.

Arguments heard on the point of summoning.

This is a complaint filed for offence punishable u/s 138 NI Act, 1881 upon the allegation that the accused issued the cheque in question in discharge of legal liabilities as mentioned in the complaint. When the aforesaid cheque was presented for encashment, same was received back dishonoured. Legal notice was issued but same accused failed to make the payment within the stipulated period. Complainant has filed on record the cheque, return memo, legal notice and postal receipt among st other documents. Complaint, evidence by way of affidavit and documents annexed alongwith carefully perused.

At this point reliance is placed on the observations made by Hon'ble Supreme Court of India in case title A. C. Narayanan vs. State of Maharashtra and Anr. (2014) 11 Supreme Court cases 792, wherein it was held that :

“From a conjoint reading of Section 138, 142 & 145 of NI 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 contents of the complaint, documents in support thereof and the affidavit submitted by the complainant in support of the complainant. Once the complainant files an affidavit in support of the complaint before issuance of process u/s 200 of the Code, it is thereafter open to the Magistrate, if he thinks fit, to call upon the complainant to remain present and to examine him as to the facts contained in the affidavit submitted by the complainant in support of his complaint. However, 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 u/s 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 u/s 138 of NI Act. It is only if and where the Magistrate after considering the complaint u/s 138 of the NI Act documents produced in support thereof and the verification in the form of affidavit of the complainant is of the view that examination of the complainant or his witness is required, the Magistrate may call upon the complainant to remain present before the court and examine the complainant and / or his witness upon oath for taking a decision whether or not to issue process on the complaint u/s 138 of the NI Act.”

I have perused the record and heard Ld. counsel for complainant on the point of summoning of accused. Since the present complaint is supported by a duly attested affidavit there is no need to examine AR for complainant on oath at this juncture.

From the documents on record and the affidavit filed on behalf of the complainant, prima facie a case under Section 138 Negotiable Instrument Act, is made out against the accused persons.

Accordingly, all accused be summoned upon filing of PF, RC and speed post. Steps be taken within 15 days hereof.

In case the address of the accused being out of Delhi, the process be issued through Ld. CJM concerned.

As per the guidelines laid down in the case titles as 'Damodar S. Prabhu Vs. Sayed Baba Lal H', AIR 2010 (SC) 1907, Ahlmad is directed to make a mention on the summons (add separate sheet, if required) that the accused can make an application for compounding of the offence at the first or second hearing of the case and if such an application is made, compounding may be allowed by the court without imposing any cost on the accused. Pamphlet containing details regarding court annexed mediation to be enclosed with the summons.

Let summons be also issued upon accused through whatsapp upon providing of such details on affidavit by complainant.

Summons be also issued dasti.

Now to come up for appearance of the accused/settlement, if any/further proceedings on **04.11.2026**.

(AAKANKSHA)
JMFC-03/N/w Rohini Courts
New Delhi/12.05.2026