

109 CC NI ACT / 32373/2024 M/s Manappuram Finance Ltd Vs. Arvind Kumar Gautam /0 () 110 CC NI ACT / 32374/2024 M/s Manappuram Finance Ltd Vs. Binita Rava /0 () 111 CC NI ACT / 32375/2024 M/s Manappuram Finance Ltd Vs. Bhesh Bahadur Rana /0 () 112 CC NI ACT / 32376/2024 M/s Manappuram Finance Ltd Vs. Chamkaur Singh /0 () 113 CC NI ACT / 32382/2024 M/s Manappuram Finance Ltd Vs. Deepak Kumar Singh /0 () 114 CC NI ACT / 32383/2024 M/s Manappuram Finance Ltd Vs. Sunita Mishra /0 () 128 CC NI ACT / 32565/2024 M/s Manappuram Finance Ltd Vs. Chandan Kumar /0 () 129 CC NI ACT / 32566/2024 M/s Manappuram Finance Ltd Vs. Banani Mukherjee /0 () 130 CC NI ACT / 32567/2024 M/s Manappuram Finance Ltd Vs. Barun Gayen /0 () 131 CC NI ACT / 32568/2024 M/s Manappuram Finance Ltd Vs. Shanti Devi /0 ()

18.09.2024

Present: Mr. Puneet Aggarwal, Ld. Counsel for the complainant alongwith Mr. Dheeraj Kumar Yadav/AR.

I have gone through the entire record including the complaint and the documents. It is alleged that accused has issued the cheque in question to the complainant to discharge his liability. On its presentation the same was dishonored. Therefore, demand notice was sent to the accused by the complainant. Despite service/deemed service of said notice, accused has failed to make the payment as per provisions of Negotiable Instruments Act.

The counsel for the complainant submits that dictum of A C Narayanan is also applicable to complaints u/s 138 NI 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/witnesses 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 person(s) for offence punishable under Section 138 NI Act.

Hence, accused person(s) be summoned through all permissible modes for offence punishable u/s 138 of Negotiable Instruments Act on filing of PF/RC within two weeks. 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.

Matter be taken up now on **18.01.2024**.

As per the guidelines laid down as in the case titled as **"Damodar S. Prabhu Vs. Sayed Babalal H". AIR2010(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."

(DEEPIKA THAKRAN)
JMFC(NI ACT)-04/DWARKA COURTS
NEW DELHI/18.09.2024