

M/s Mahindra and Mahindra Financial Vs. Deepak Kumar

Present:- Sh. Ranvik Mehta Advocate counsel for the complainant.

1. The present complaint was filed under section 138 of N.I.Act. In preliminary evidence complainant examined himself as CW1 and narrated the whole sequence of events in minute details through affidavit EX.CW1/A as got detailed by him in the written complaint. He placed on the record the documents **ExC1 to ExC7**.

2. As accused is residing beyond the jurisdiction of this court, therefore case was fixed for enquiry under section 202 Cr.P.C wherein I have examined documents **Ex. C1 to Ex. C7**. The documents i.e. **Ex. C3** cheque, **Ex. C4** memo and **Ex. C6** postal receipt are perse admissible in evidence. Perusal of the entire documents and evidence shows that there is sufficient ground for proceeding against the accused under section 138 of N.I. Act.

3. Arguments on the point of summoning heard.

4. In the present complaint, complainant has alleged that the accused issued cheque in question **Ex. C3** to discharge the legal liability towards the complainant, but when same were presented in the bank by the complainant for collection, the said cheque was dishonoured vide memo **Ex. C4**. The complainant served a legal notice **Ex.C5**, through post to the accused and postal receipt is **Ex.C6**, but in spite of it, the accused has failed to make the payment of the cheque amount.

5. In view of the allegations made in the complaint and evidence led by the complainant, I am of the view that there are sufficient grounds to proceed against the accused under section 138 of Negotiable Instruments Act. The detailed expression of opinion is avoided as it is no longer necessary in view of the observation of Hon'ble Supreme Court of India in **U.P Pollution Board Versus Mohan Meekan,2000(2) RCR 421** and reiterated recently in **Deputy Chief Controller of import and export Versus Roshan Lal Aggarwal, 2003(2) RCR (Crl) 110(SC)**.

6. **Accused Deepak Kumar**, is ordered to be summoned to face trial for the offence under section 138 of Negotiable Instruments Act on filing of PF/RC/AD and copy of complaint within 3 days for **07.05.2022**. In addition to it, separate notice be also sent to the

accused through registered cover as envisaged under section 144 of the Act. Accused be apprised of his/her right of plea of bargaining as mentioned in Chapter-21A of Criminal Procedure Code, 1973, on the summons sent to him/her.

Date of Order: 14.03.2022
(Sunny Manchanda)

Navjit Pal Kaur
JMIC/Ferozepur
UID: PB0398