

15 CC NI ACT / 8523/2026

SUSHIL AGGARWAL Vs. YOGINDER KUMAR AGGARWAL

07.05.2026

The undersigned is working as Duty JMFC today.

Present: Ms. Nancy Goyal, Ld. counsel for the complainant
joined through VC.

None for the accused.

In light of judgment titled as **Sanjabij Tari Vs. Kishore S. Borkar & Anr.** (Criminal Appeal no.1755/2010 dated 25.09.2025), pre-cognizance notice is not being issued to the accused.

Arguments heard on cognizance.

This complaint is filed for offence punishable under Section 138 Negotiable Instruments Act. Complaint, affidavit of evidence and other annexed documents perused.

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 **Ex.CW-1/1** 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 is signatory of the cheque in question and as per the documents examined, *prima facie* case is made out against the accused.

Let summons be issued to the accused through all permissible modes on filing of PF within 15 days from today, returnable on **11.09.2026**.

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 earlier as per judgment of ***Damodar S. Prabhu; (2010) 5 SCC 663***. Complainant to file tracking report of summons on NDOH.

(Archita Garg)
JMFC (NI Act)-06 South District,
Saket Courts, New Delhi/07.05.2026