CNR No:HRAM030123472025 **CASE No:NACT-4330-2025**

HDFC Bank Vs KANHAIYA LAL

Present: Sh. Puneet Sirpaul, Advocate for the complainant.

Today the case was fixed for argument on the point of summoning of accused.

Arguments heard on the point of summoning. From the material brought on the file, it is prima-facie established that the accused in order to discharge his existing liability of **Rs.25153.12/-,** initiated electronic funds transfer but same cannot be executed because of the reason specified in bank memo **Ex.C1 i.e. "insufficient funds".** Legal notice **Ex.C2** was also sent to the accused but the payment was not made.

Section 25 Payment and Settlement Systems of the Act provide as under :-"Dishonour of electronic funds transfer for insufficiency, etc. of funds in the account"

(1) Where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is in sufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, such per son shall be deemed to have committed an of fence and shall, with out prejudice to any other provisions of this Act, be punished with im prison ment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both:

Provided that nothing contained in this section shall apply unless-

(a) the electronic funds transfer was initiated for payment of any amount of money to another person for the discharge, in whole or in part, of any debt or other liability.

(b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider,

(c) the beneficiary makes a demand for the payment of the said amount of money by giving a notice in writing to the person initiating the electronic funds transfer within thirty days of the receipt of information by him from the bank concerned regard ing the dishonour of the electronic funds transfer, and

(d) the person initiating the electronic funds transfer fails to make the payment of the said money to the beneficiary within fifteen days of the receipt of the said notice.

(2) It shall be presumed, unless the contrary is proved, that the

electronic funds transfer was initiated for the discharge, in whole in part, of any debt or other liability.

(3) It shall not be a defence in a prosecution for an offence under sub-section (1) that the person, who initiated the electronic funds transfer through an instruction, authorization, order or agreement, did not have reason to believe at the time of such instruction, authorization, order or agreement that the credit of his account is insufficient to effect the electronic funds transfer.

(4) The Court shall, in respect of every proceeding under this sec tion, on production of a communication from the bank denoting the dishonour of electronic funds transfer, presume the fact of dishonour of such electronic funds transfer, unless and until such fact is disproved.

(5) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 (26 of 1881) shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

Since the accused has not made the payment within stipulated period and did not comply with the above provisions despite service of notice as such there are sufficient grounds to proceed against the accused under Section 138 of the Negotiable Instruments Act, 1881. Let, the accused be summoned for **04.06.2026** through RC on filing of PF, Copy of complaint, list of witnesses etc. In view of the directions of **(Hon'ble Apex Court in "Sanjabij Tari Vs Kishore S.Borcar & anr" (Neutral Citation 2025 INSC 1158) D/d 25.09.2025)**, dasti summons be issued to the accused, if desired. Further, if the requisite particulars including e-mail address, mobile number and/or Whatapp number/messaging application details of the accused are provided by the complainant, duly supported by an affidavit, verifying the said particulars of the accused, service be also effected through the said electronic mode. The ahlmad of this court is directed to make a specific mention on the summons that this is a compoundable offence. Also this court is of opinion that imprisonment for a period exceeding one year may have to be passed, thus the present complaint be treated as summons case.

Date of Order: 03.12.2025
Mamta

(Dhruv Saini)
Judicial Magistrate - Ist Class,
Ambala
UID No . HR00562