

Present: Sh. Rajesh Kumar, Ld. Counsel for complainant.

This is complaint filed for offence punishable under Section 25 PASA Act. Complaint, affidavit of evidence and other annexed documents perused. The present complaint has been filed within the limitation period.

In matter of ***“A. C. Narayanan Vs. State of Maharashtra & Anr.”***
(2014) 11 Supreme Court Cases 790, **Full Bench of Hon'ble Supreme Court of India** has held as under : -

“29. From a conjoint reading of Sections 138, 142 and 145 of the 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 the contents of the complaint, documents in support thereof and the affidavit submitted by the complainant in support of the complaint. Once the complainant files an affidavit in support of the complaint before issuance of the process under Section 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 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. It is only if and where the Magistrate, after considering the complaint under Section 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(s) 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 under Section 138 of the NI Act.”

As offence and procedure of Section 138 NI Act is similar to Section 25 The Payment and Settlement System Act, 2007, thus the above said judgment can be applied in present case also.

The complaint, affidavit of evidence and documents considered in light of above cited judgment. In the opinion of this Court, there is no need to examine the complainant on oath as present complaint is duly supported by verification in the form of affidavit of the complainant. Thus, there are prima facie sufficient grounds for proceeding against the accused for offence punishable under Section 25 The Payment and Settlement System Act, 2007.

Hence, issue summons against the accused on filing of PF/RC returnable on 19.10.2024.

RAHUL VERMA
MM (NI ACT-02), WEST /20.06.2024