

**6 CC NI ACT 13573-2023 HALONIX TECHNOLOGIES
PRIVATE LIMITED THROUGH MR SHASHWAT GAUR
Vs. UPENDRA BAHADUR KHARE (Barakhamba Road)
24.01.2024**

Present: Mr. Pradeep Dudy, ld. counsel for complainant with
AR.

On the last date of hearing complainant has moved
an application for substitution of AR along with the board
resolution.

Heard and allowed.

Let the AR Sh. Abhimanyu Rathi be substituted in
place of previous AR.

Evidence by way of affidavit filed by Sh. Abhimanyu
Rathi. This affidavit now stands substituted in place of earlier
affidavit filed.

GST details of the drawer of the cheque has been
filed by counsel for complainant. Same is taken on record.

Arguments on the point of maintainability of the
case heard.

There is sufficient material on record to proceed
against accused, prima facie offence u/s 138 NI Act appears to
have been committed. I hereby take cognizance of the same.

I have perused the complaint u/s 138 NI Act,
evidence by the way of affidavit of the complainant and the
documents relied upon by the complainant.

Heard. Case file is perused.

In the present case, upon perusal of documents
annexed and inquiry u/s 202 Cr.P.C. I am prima facie convinced
that the offence of dishonour of cheque u/s 138 NI Act has been

made out against the accused. As per the averments made in the present complaint, this court has the territorial jurisdiction to entertain the complaint. Complaint has been filed within the limitation period. All other statutory requirements have been fulfilled.

As per the judgment of the Honble Supreme Court in A.C. Narayanan Vs. State of Maharashtra & Anr. (2014) 11 SCC 790, Full Bench, examination of the complainant upon oath for issuance of process is a matter of discretion of the Magistrate. In the considered opinion of this court, there is no need to examine the complainant for the purpose of issuance of process. There is sufficient material before this court to proceed against the accused. I hereby take cognizance of the offence under Section 138 of the NI Act. At this stage, PSE being dispensed with.

Let summons be issued to accused on filing of PF/RC/Speed post / electronic mode within 15 days and authorized courier returnable on **28.05.2024**.

Complainant is also at liberty to furnish email or whatsapp number of accused on the PF form for effective service through electronic mode.

Complainant is also directed to file PF and provide the copy/ies of the complaint to the accused, otherwise the complaint may be dismissed u/s 204 (4) Cr.PC.

In case of refusal, non-availability or premises of the accused is found locked, summons be served by way of affixation.

(Neha Garg)
MM (NI Act)-02-PHC
NDD-ND-24.01.2024