

Present:- Complainant in person being represented by Sh. Rajesh Kumar Khatana, Advocate.

ORDER :-

Briefly stated the facts of the present case are that accused had issued a cheque bearing no. **000061** dated **22.09.2017** amounting to Rs. **9,62,000/-** drawn on HDFC Bank for payment to the complainant in discharge of his liability. The aforesaid cheque on presentation to the banker namely, HDFC, was received back with the remarks "Insufficient Funds" on 25.09.2017, 06.10.2017, 03.11.2017 and 13.11.2017. Thereafter, within the stipulated time i.e. thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid, the complainant served a legal notice dated 05.12.2017 on the accused, but the accused failed to make the payment of the amount due to the complainant within fifteen days of the receipt of the legal notice sent by the complainant to the accused. Hence, the present complaint for proceeding against the accused under Section 138 of Negotiable Instruments Act has been filed.

To substantiate the facts, complainant appeared in the witness box as CW-1 and testified on oath regarding her case as put forth in the complaint and further has placed on record following documents:

1. Cheque bearing No. **000061** dated **22.09.2017** : **Ex.C1**
2. Cheque return memos : **Ex.C2 to Ex.C5**
3. Legal notice dated 05.12.2017 : **Ex.C6**
4. Postal receipt : **Ex.C7**

Heard. A perusal of documents placed on record reveals that the complainant had presented the cheque in question to the banker of the accused in time and within the stipulated time i.e. thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid, complainant served a legal notice on 05.12.2017 upon the accused, but the accused still failed to make the payment of the said amount of money to the complainant within fifteen days of the receipt of the legal notice sent by the complainant to the accused.

Therefore, keeping in view the aforesaid discussion and

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observations, there are sufficient grounds to proceed against the accused under Section 138 of the Negotiable Instruments Act. Hence, notice be accordingly issued to the accused for **26.03.2018** on filing of copy of complaint, summons etc.. Dasti/speed post be taken, if so desired.

Announced in open Court
Dated : 05.01.2018

(Lalita Patwardhan),
Sub-Divisional Judicial Magistrate,
Sohna, Gurugram (UID no. HR0291)

(Rohit Kumar)

Note: This order contains 2 pages and both the pages have duly been checked & signed by me

(Lalita Patwardhan),
Sub-Divisional Judicial Magistrate,
Sohna, Gurugram (UID no. HR0291)
05.01.2018

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Present:- Complainant in person being represented by Sh. Rajesh Kumar Khatana, Advocate.

Complaint presented before me being Illaqua Magistrate. It be checked and registered. Learned counsel for complainant present in the court stated that he wants to lead preliminary evidence. Heard. Allowed. Thereafter, witness Smt. Sudha present in the court examined as CW-1 and tendered her affidavit Ex.CW1/A along with documents Ex.C1 to Ex.C7 in his evidence as well as closed the preliminary evidence. Heard. Vide my separate order of even date, the accused is hereby ordered to be summoned under Section 138 of N.I.Act on filing of PF/Copy of complaint and summons form etc. for **26.03.2018**. Ahlmad to do the needful for strict compliance.

(Lalita Patwardhan),
SDJM/Sohna.05.01.2018

(Rohit Kumar)

Next date of hearing :

Purpose :