

Sanjabij Tari v. Kishore S. Borcar and Anr.

25/09/2025

Expert Note:

Hon'ble Supreme Court in *Sanjabij Tari v. Kishore S. Borcar and Anr.*, [\(2025\) ibclaw.in 385 SC](#) issued comprehensive directions for service of summons (including dasti and electronic means), online payment facilities, filing of a synopsis, and other procedural reforms to expedite disposal.

Guideline/ Directions

Keeping in view the massive backlog of cheque bouncing cases and the fact that service of summons on the accused in a complaint filed under Section 138 of the NI Act continues to be one of the main reasons for the delay in disposal of the complaints as well as the fact that punishment under the NI Act is not a means of seeking retribution but is more a means to ensure payment of money and to promote credibility of cheques as a trustworthy substitute for cash payment, the Hon'ble Supreme Court issues the following directions:-

- **A.** In all cases filed under Section 138 of the NI Act, service of summons shall not be confined through prescribed usual modes but shall also be issued *dasti* i.e. summons shall be served upon the accused by the complainant in addition. This direction is necessary as a large number of Section 138 cases under the NI Act are filed in the metropolitan cities by financial institutions, by virtue of Section 142(2) of the NI Act, against accused who may not be necessarily residing within the territorial jurisdiction of the Court where the complaint has been filed. The Trial Courts shall further resort to service of summons by electronic means in terms of the applicable Notifications/Rules, if any, framed under sub- Sections 1 and 2 of Section 64 and under Clause (i) of Section 530 and other provisions of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS, 2023') like Delhi BNSS (*Service of Summons and Warrants*) Rules, 2025. For this purpose, the complainant shall, at the time of filing the complaint, provide the requisite particulars including e-mail address, mobile number and/or WhatsApp number/messaging application details of the accused, duly supported by an affidavit verifying that the said particulars pertain to the accused/respondent.
- **B.** The complainant shall file an affidavit of service before the Court. In

the event such affidavit is found to be false, the Court shall be at liberty to take appropriate action against the complainant in accordance with law.

- **C.** In order to facilitate expeditious settlement of cases under Section 138 of the NI Act, the Principal District and Sessions Judge of each District Court shall create and operationalise dedicated online payment facilities through secure QR codes or UPI links. The summons shall expressly mention that the Respondent/Accused has the option to make payment of the cheque amount at the initial stage itself, directly through the said online link. The complainant shall also be informed of such payment and upon confirmation of receipt, appropriate orders regarding release of such money and compounding/closure of proceedings under Section 147 of the NI Act and/or Section 255 of Cr.P.C./278 BNSS, 2023 may be passed by the Court in accordance with law. This measure shall promote settlement at the threshold stage and/or ensure speedy disposal of cases.
- **D.** Each and every complaint under Section 138 of the NI Act shall contain a synopsis in the following format which shall be filed immediately after the index (at the top of the file) i.e. prior to the formal complaint, refer **Annexure**.
- **E.** Recently, the High Court of Karnataka in [Ashok Vs. Fayaz Aahmad, \(2025\) ibclaw.in 978 HC](#) has taken the view that since NI Act is a special enactment, there is no need for the Magistrate to issue summons to the accused before taking cognizance (under Section 223 of BNSS) of complaints filed under Section 138 of NI Act. The Supreme Court is in agreement with the view taken by the High Court of Karnataka. Consequently, the Hon'ble Court directs that there shall be no requirement to issue summons to the accused in terms of Section 223 of BNSS i.e., at the pre-cognizance stage.
- **F.** Since the object of Section 143 of the NI Act is quick disposal of the complaints under Section 138 by following the procedure prescribed for summary trial under the Code, the Supreme Court reiterates the direction of in *In Re: Expeditious Trial of Cases under section 138 of N.I. Act 1881*, [\(2021\) ibclaw.in 227 SC](#) that the Trial Courts shall record cogent and sufficient reasons before converting a summary trial to summons trial. To facilitate this process, the Supreme Court clarifies that in view of the judgment of the Delhi High Court in *Rajesh Agarwal*

v. *State and Anr.* [\(2017\) ibclaw.in 919 HC](#), the Trial Court shall be at liberty (at the initial post cognizance stage) to ask questions, it deems appropriate, under Section 251 Cr.P.C. / Section 274 BNSS, 2023 including the following questions:-

- (i) Do you admit that the cheque belongs to your account? *Yes/No*
 - (ii) Do you admit that the signature on the cheque is yours? *Yes/No*
 - (iii) Did you issue/deliver this cheque to the complainant? *Yes/No*
 - (iv) Do you admit that you owed liability to the complainant at the time of issuance? *Yes/No*
 - (v) If you deny liability, state clearly the defence:
 - (a) Security cheque only;
 - (b) Loan repaid already;
 - (c) Cheque altered/misused;
 - (d) Other (specify).
 - (vi) Do you wish to compound the case at this stage? *Yes/No*
- **G.** The Court shall record the responses to the questions in the order-sheet in the presence of the accused and his/her counsel and thereafter determine whether the case is fit to be tried summarily under Chapter XXI of the Cr.P.C. / Chapter XXII of the BNSS, 2023.
 - **H.** Wherever, the Trial Court deems it appropriate, it shall use its power to order payment of interim deposit as early as possible under Section 143A of the NI Act.
 - **I.** Since physical courtrooms create a conducive environment for direct and informal interactions encouraging early resolution, the High Courts shall ensure that after service of summons, the matters are placed before the physical Courts. Exemptions from personal appearances should be granted only when facts so warrant. It is clarified that prior to the service of summons the matters may be listed before the digital Courts.

- **J.** Wherever cases under Section 138 of the NI Act are permitted to be heard and disposed of by evening courts, the High Courts should ensure that pecuniary limit of the cheque amount is realistic. For instance, in Delhi, the jurisdiction of the evening courts to hear and decide cases of cheque amount is not exceeding Rs.25,000/-. In the opinion of the Supreme Court, the said limit is too low. The High Courts should forthwith issue practice directions and set up realistic pecuniary benchmarks for evening Courts.
- **K.** Each District and Sessions Judge in Delhi, Mumbai and Calcutta shall maintain a dedicated dashboard reflecting the pendency and progress of cases under Section 138 of the NI Act. The dashboard shall include, inter alia, details regarding total pendency, monthly disposal rates, percentage of cases settled/compounded, average number of adjournments per case and the stage-wise breakup of pending matters. The District and Sessions Judges in aforesaid jurisdictions shall conduct monthly reviews of the functioning of Magistrates handling NI Act matters. A consolidated quarterly report shall be forwarded to the High Court.
- **L.** The Chief Justices of Delhi, Bombay and Calcutta are requested to form Committee on the Administrative side to monitor pendency and to ensure expeditious disposal of Section 138 of the NI Act cases. These Committees should meet at least once a month and explore the option of appointing experienced Magistrates to deal with Section 138 of the NI Act cases as well as promoting mediation, holding of Lok Adalats and other alternative dispute resolution mechanisms in Section 138 NI Act cases.

Revised Guidelines of Compounding

The Supreme Court framed guidelines for compounding offences under the NI Act nearly fifteen years back in ***Damodar S. Prabhu v. Sayed Babalal H., (2017) [ibclaw.in 799 SC](#)***. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, the Supreme Court is of the view that it is time to '*revisit and tweak the guidelines*'. Accordingly, the aforesaid guidelines of compounding are modified as under:-

- (a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court

may allow compounding of the offence without imposing any cost or penalty on the accused.

- (b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.
- (c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.
- (d) Finally, if the cheque amount is tendered before the Supreme Court, the figure would increase to 10% of the cheque amount.(p37-38)

The Hon'ble Supreme Court is of the view that if the Accused is willing to pay in accordance with the aforesaid guidelines, the Court may suggest to the parties to go for compounding. If for any reason, the financial institutions/complainant asks for payment other than the cheque amount or settlement of entire loan or other outstanding dues, then the Magistrate may suggest to the Accused to plead guilty and exercise the power under Section 255(2) and/or 255(3) of the Cr.P.C. or 278 of the BNSS, 2023 and/or give the benefit under the Probation of Offenders Act, 1958 to the Accused.(p39)

Annexure

Complaint under Section 138 of the Negotiable Instruments Act, 1881

I. Particulars of the Parties

(i) Complainant: _____

(ii) Accused: _____

(In case where the accused is a company or a firm then Registered

Address, Name of the Managing Director/Partner, Name of the signatory,
Name of the persons vicariously liable)

II. Cheque Details

(i) Cheque No. _____

(ii) Date: _____

(iii) Amount: _____

(iv) Drawn on Bank/Branch: _____

(v) Account No.: _____

III. Dishonour

(i) Date of Presentation: _____

(ii) Date of Return/Dishonour Memo: _____

(iii) Branch where cheque was dishonoured: _____

(iv) Reason for Dishonour: _____

IV. Statutory Notice

(i) Date of Notice: _____

(ii) Mode of Service: _____

(iii) Date of Dispatch & Tracking No.: _____

(iv) Proof of Delivery & date of delivery: _____

(v) Whether served: _____

(vi) If Not, reasons thereof: _____

(vii) Reply to the Legal Demand Notice, if any _____

V. Cause of Action

(i) Date of accrual: _____

(ii) Jurisdiction invoked under Section 142(2): _____

(iii) Whether any other complaint under section 138 NI Act is pending between the same parties, If Yes, in which court and the date and year of the institution.

VI. Relief Sought

(i) Summoning of accused and trial under Section 138 NI Act _____

(ii) Whether Award of Interim compensation under Section 143A of NI Act sought _____

VII. Filed through:

Complainant/Authorized Representative