

Precedent No. 76

**AFFIDAVIT: UNDER SECTIONS 138 AND 141 OF THE NEGOTIABLE
INSTRUMENTS ACT, 1881**

IN THE COURT OF METROPOLITAN MAGISTRATE,

In

Criminal Complaint No of 20

IN THE MATTER OF

A.B

.....COMPLAINANT

VERSUS

B.C

....ACCUSED

POLICE STATION:.....

AFFIDAVIT

I.....agedyears, Proprietor Ltd., having main office at, do hereby solemnly affirm and declare as under:

1. That the deponent shall hereinafter call himself as 'complainant' and the opposite party as 'accused'.
2. That the deponent is the complainant in the above matter and is conversant with the facts and circumstances of the case and competent to swear this affidavit which further states as under.
3. That the complainant is the proprietor of the, having main office at the above address as stated in the title of the complaint.
4. That the respondent accused person is the proprietor of M/s
5. That during the course of business, the respondents purchased fancy lights from the complainant *vide* bill already Ex. CE-1/7.
6. That the accused person issued a cheque bearing No, for a sum of Rs, drawn on, in discharge of his liability towards the above bill which is already Ex. CW-1/1.

7. That the said cheque on its presentment has been returned by the banker of the accused person dishonored for the reason of 'stop payment' *vide* the memo of the banker which is already Ex. CW-1/2 which is dated 11-02-05.
8. That the counsel of the complainant issued a legal notice under section 138 of the Negotiable Instruments Act, 1881, dated, by Registered post with *AD* and *UPC* and the notice was duly served on the accused as the *AD* is received back. No payment is made in compliance with the said notice by the accused. The said notice is Ex. CW-1/3, postal receipts are Ex. CW-1/4 and 5 and the returned *AD* is Ex. CW-1/ 6.
9. It is further stated that the aforesaid notice was mischievously replied to, by the accused, through his counsel, which is Ex. CW-1/8, with its envelop EX. CW-1/9, the contents whereof are vehemently denied as being false and frivolous and concocted except what has been admitted therein.
10. That in view of the above, the accused person has committed an offence under section 138 of the Negotiable Instruments Act, 1881 for which he is liable to be fined for the double the amount of the cheque and imprisonment of 2 years and the complainant is entitled for compensation to the extent of fine imposed upon the accused persons.
11. That the accompanying complaint is filed in absolute compliance with the relevant statutory provisions.
12. That the offence as stated above has been committed within the exclusive territory of the banker of the complainant is also situated within the jurisdiction of this Hon'ble Court. Therefore, this Hon'ble Court has the jurisdiction to deal with this matter.
13. That no other complaint whatsoever has been filed by the complainant so far before any other authority or court of law in respect of the cheque which is the subject-matter of this complaint and the deponent reserves his rights to file civil case also as per law.
14. In view of the above, it is prayed in the interest of justice that this Hon'ble Court may be pleased to try and punish the accused person with imprisonment of two years and fine of double the amount of cheque and direct the same to be paid to complainant as compensation as per law.

This Hon'ble Court may be pleased to mould the relief as per law as may deem fit and proper in the facts and circumstances of the case and to meet the ends of justice or may grant any other relief in favour of the complainant accordingly.

SdJ

Deponent.

VERIFICATION

Verified at on this the of 20.....that the contents of the above affidavit are true and correct to the best of my knowledge, belief and information of the deponent and nothing material has been concealed therefrom.

SdJ

Deponent.

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the day of.....,20

SdJ

Counsel for the deponent.

Note: Affidavit to be attested by the appropriate authority prescribed under law. Prayer may be avoided. Language should be in 'first person'.