21 Ct. Cases 607/2026
CNR No. DLWT020100622026
YARA FERTILISERS INDIA PVT LTD Vs. Hitesh P Patel

24.04.2026
Fresh complaint case u/s 138 NI Act received. It be checked and registered.

Present : Ms. Chavi Jain, Ld. counsel for the complainant through VC.

Record reflects that legal demand notice was not effectively served through speed post.

However legal demand notice has been served through WhatsApp and email. Copies of screenshot alongwith certificate u/s.63 BSA has been placed on record confiming service of legal demand notice.

As per the directions issued by the Hon'ble Supreme Court of India in judgment CR. Appeal no.1755 of 2010 dt. 25.09.2025 titled as "Sanjabij Tari Vs. Kishore S Borcar and Anr.", the requirement of issuing pre-cognizance notice in terms of 223 BNSS has been dispensed with.

Perusal of the complaint, evidence by way of affidavit (which is exhibited at this stage as Ex.CW1/A for the purpose of identification) the documents relied upon by the complainant, shows that they are duly verified and in order. Prima facie, the offence under Section 138 NI Act seems to be committed and I hereby take the cognizance of the same.

The Hon'ble Supreme Court in the decision reported as A.C. Narayanan vs. State of Maharashtra (2014) 11 SCC 790 has held as under,

"29. From a conjoint reading of Sections 138, 142 and 145 of the N.I. 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….

…33.4 In the light of Section 145 of the NI Act, 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 and the Magistrate is neither mandatorily obliged to call upon the complainant to remain

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present before the Court, nor to examine the complainant or his witness upon oath for taking the decision whether or not to issue process on the complaint under Section 138 of the NI Act."

Similar directions have been issued in Indian Bank Association & Ors. vs. Union of India (2014) 5 SCC 590 and Rajesh Agarwal vs. State (2010) 171 DLT 51. In view of the aforesaid judgment, the examination of the complainant is dispensed with. On consideration of the complaint, annexed documents and the verification affidavit of the complainant, this Court is of the opinion that prima facie there are sufficient grounds for proceeding against the accused mentioned below for the commission of offence under Section 138, Negotiable Instruments Act, 1881.

Let the accused Sh. Hitesh P. Patel, S/o Sh. Prahladbhai Kalidas Patel, being proprietor of M/s. Maruti Enterprise, be summoned on filing of PF/RC/Speed post including WhatsApp and email within 30 days from today. As per directions of Hon'ble Supreme Court of India summons be also given dasti to the complainant. In case of non availability/premises found locked/refusal, summons be served by way of affixation.

Complainant is directed to file PF and affidavit (stating that the e-mail ID and mobile number of the accused provided is correct) along with copy of complaint and set of documents, within 30 working days from today. **Ahlmad is directed to issue summons within 03 working days from the date on which PF is filed**. As per the guideline laid down in the case titled Damodar S. Prabhu vs. Sayyed Baba Lal H. reported in (2010) 5 SCC 663, Ahlmad is directed to make a mention on the summons issued that:

"Accused can make an application for compounding of the offence at the first and second hearing of the case and if such an application is made compounding may be allowed by the court without imposing any cost on the accused".

Put up for appearance of accused on **09.09.2026.**

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(GAURAV UJJWAL)
JUDICIAL MAGISTRATE, FIRST CLASS,
(NI ACT-01) WEST, THC, DELHI/24.04.2026