**COMPLAINT UNDER SECTIONS 138 AND 142 OF THE NEGOTIABLE INSTRUMENTS ACT**

IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE....................

Shri.................... s/o.................... R/o....................

................................................................... Complainant

*versus*

.......................................................................... Accused

Complaint u/ss. 138 & 142 of the Negotiable Instrument Act, 1881 as amended by Act 66 of 1988.

The complainant respectfully submits as under: —

1. That the accused is Proprietor of............................................................. dealing....................

2. That the accused took loan of Rs..................... from the complainant and executed a pronote on.................... for Rs..................... (A photocopy of the pronote is Annexure.................... ).

3. That the accused issued Cheque No..................... dated.................... for the sum of Rs..................... (Rupees.................... only) drawn on.................... and gave it to the complainant to discharge his liability with respect to the said loan amount/pronote. (Photocopy of cheque is Annexure.................... ).

While issuing the said cheque the accused assured the complainant that the cheque will be honoured on its presentation.

4. That the complainant states that the cheque was presented for collection through the complainant’s bank.................... on........................................ and the said cheque was returned on.................... as unpaid due to insufficiency of funds in the account of the accused in the bank with a memorandum ‘refer to drawer’. (Photocopy of the memorandum of the bank is Annexure:.................... ).

The accused had thus dishonest and guilty intention right from the beginning at the time he issued the aforesaid cheque.

5. That the complainant immediately thereafter contacted the accused and apprised him about the dishonouring of the cheque but the accused did not pay any heed.

6. That the complainant states that within fifteen days of the receipt of his information from the bank regarding dishonour/the return of the cheque as unpaid, he send a registered AD and U. P. C. notice dated................... through his lawyer .................... to the accused on.................... vide postal receipt No..................... dated .................... (Post Office.................... ) calling upon the accused for payment of the said amount alongwith interest due on the dishonoured cheque within fifteen days from the date of the receipt of the notice. The accused acknowledged the receipt of the said notice vide acknowledgement due. (The photostat copies of the postal receipt of the Registered A. D. Letter/U. P. C. and the A. D. Card are Annexures..................... The photostat copy of the legal notice is Annexure.................... ). The accused having received the notice on..................... has failed to make payment within fifteen days of the receipt of the legal notice.

That the accused is deemed to have received the Notice on.................... as the Notice was sent under Registered A/D and as well U. P. C. on.................... The accused having received the notice on.................... has failed to make payment within fifteen days of the receipt of the legal notice.

7. That the complainant submits that accused had issued the cheque without sufficient funds in his bank account. Therefore the accused committed the offence u/s. 138 of the Negotiable Instrument Act, 1881 as amended by the Act 66 of 1988 and is liable to be punished.

8. That the complainant further submits that the Accused intentionally induced the complainant to render loan assistance/to him with preintention not to pay and thereby has cheated the complainant & committed offences u/ss. 415 and 420 of I. P. C.

9. The cause of action for the present prosecution arose on the 16th day i. e. .................... after the expiry of 15 days of receipt of the aforesaid legal notice, and due to non-payment of the amount by the accused.

10. That the complainant further submits that he has filed the complaint within one month from the date of expiry of the fifteen days time given under the law for the payment of the said money. The said cheque was issued at..................... presented at the.................... where the cheque was returned as unpaid by complaints Bank and so this Hon’ble Court has jurisdiction to take cognizance of the offence.

11. The accused has thus committed the offences punishable under Sections 415 & 420 I. P. C. and Section 138 of the Negotiable Instruments Act, 1881, as amended in 1988. The complainant, however, chooses to prosecute the accused only for the offence under Section 138 of the Negotiable Instruments Act an amended because of the said remedy being more efficacious and speedier.

It is, therefore, prayed that the accused may be summoned to face the trial under Section 138 of the Negotiable Instruments Act, 1881, as amended in 1988, tried and punished thereunder in accordance with law.

It is also further prayed that this Hon’ble Court may be pleased to order for the payment of the compensation out of the fine amount u/s. 357 of Cr. P. C. read with S. 117 of Negotiable Instruments Act to the complainant as follows:

(1) Cheque Amount Rs. .......................

(2) Bank Service Charge Rs. .......................

(3) Notice Charge Rs. .......................

(4) Advocate’s Fees Rs. .......................

(5) Interest Amount (upto........) Rs. .......................

Total Rs......................... (plus interest @......... till payment)

Dated at .................. this ............... day of....................