

CHECK-LIST U/S 138 R/W 142 N.I. Act

POLICE STATION –
DISTRICT –

	Name & Address of Complainant	
	Name & Address of Accused(s)	1.
	Name of the Police Station	
4	Total Number of Cheques	
	Total Cheque's Amounting to	
	Details regarding any other cases U/s 138 N.I. Act pending against same Accused(s)	
6(A)	Name of the Courts where such case is pending.	
6(B)	Complaint case number	
6(C)	Next date of hearing before such Courts	

7.	Any other information (example Agreements of loan etc.) with date and other particulars.	
8	Whether any legal notice was served to the accused	

**IN THE COURT OF LD. CHIEF METROPOLITAN MAGISTRATE,
DISTRICT COURT, _____.**

Complaint Case No. _____ of 2020

IN THE MATTER OF :

XYZ ... Complainant

Versus

ABC Accused

I N D E X

SL.No	PARTICULARS	PAGES
1	MEMO OF PARTIES	
2	COMPLAINT UNDER SECTION 138 READ WITH SECTION 142 OF THE NEGOTIABLE INSTRUMENTS ACT 1881 (AS AMENDED UPTO DATE).	
3	LIST OF WITNESSES	
4	LIST OF DOCUMENTS ALONGWITH DOCUMENTS	
5	EVIDENCE BY WAY OF AFFIDAVIT	
6	VAKALATNAMA	

COMPLAINANT

Place:

Dated:

Through

NAME AND ADDRESS OF THE COUNSEL

**IN THE COURT OF LD. CHIEF METROPOLITAN MAGISTRATE,
DISTRICT COURT, _____**

Complaint Case No. _____ of 2020

IN THE MATTER OF :

_____ ... Complainant

Versus

_____ ...
Accused

Offences: u/s 138 of the
Negotiable Instruments Act, 1881

Police Station: _____
District : _____

**COMPLAINT UNDER SECTION 200 OF THE CODE OF CRIMINAL
PROCEDURE, 1973 FOR THE COMMISSION OF THE OFFENCES
PUNISHABLE UNDER SECTION 138 OF THE NEGOTIABLE
INSTRUMENTS ACT, 1881 READ WITH SECTION 141 & 142 OF THE
N.I ACT, 1881.**

Most Respectfully Showeth:

1. That the complainant _____ is an authorized signatory at _____.
2. That accused No. 2 & 3 are also authorized signatory at
_____.

3. That the accused approached the Complainant for availing the services of _____ the complainant accordingly provided the said services and raised the invoices accordingly.

4. That at the time of availing the said services, the billing amount raised by the complainant for the services they provided to the accused was Rs. _____/-.

5. That the accused as per the terms and conditions paid the amount of Rs. _____/- through cheque and balance of Rs. _____ was left .

6. That the accused thereafter issued various cheques in favour of the complainant to pay the balance amount all of which were dishonoured on the account of funds insufficient.

7. That the complainant again and again requested the accused to pay them for their services, every time in good faith, though the cheques issued by the accused were dishonoured again, for which the accused was served with a legal notice dated _____.

5. That the accused company in discharge of liabilities towards the complainant, issued a cheque bearing No. _____ dated _____ for a sum of Rs. _____ (Rupees _____ only), drawn on _____ Bank LTD., (address) , in favour of the complainant. The accused

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

6. That the complainant, within the validity of the aforesaid cheque, presented it for the proceeds, in his account through its banker _____ Bank, (address) but the said cheque was received back by the complainant as dishonoured and unpaid through cheque returning memo dated _____ with the remarks “Funds Insufficient (or mention any other reason)”.

7. That the accused had dishonestly and fraudulently issued the aforesaid cheque to and in favour of the complainant, which the accused knew that on presentation would never be honoured. Had the complainant known that the accused had no intentions to make the payment, the complainant would not have accepted the said cheque, which the accused issued in discharge of his debts and liabilities towards the complainant.

8. That thereafter the complainant, through his lawyers, served a legal notice dated _____ through postal services/registry, to the accused, thereby calling upon the accused to pay the amount of the cheque to the complainant within 15 days from the receipt of the said notice. Through the said notice, the accused was warned before-hand that in the event of their failure to make the payment of the amount of the aforesaid cheque to

the complainant within the stipulated period, the accused would commit an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 as amended upto date, and in that case the complainant would be left with no alternative but to take legal proceedings against the accused at the costs and risks of the accused.

9. That the notices sent to the accused on their respective addresses. The notice was sent at the correct address, but the accused is intentionally avoiding the service of the notice, by not adhering to it and replying. It shows the mala fide intention of the accused that the accused is not willing to make the payment of dishonoured cheque to the complainant, hence this complaint.

10. That in the aforesaid manner, the accused has committed the offences punishable under Section 138 of the Negotiable Instruments Act, 1881, as amended up to date, read with section 141 and section 142 of the Negotiable Instruments Act, 1881.

11. That this Hon'ble Court has the competent jurisdiction to entertain and try the present complaint as the cheque in question was drawn on and also handed over to the complainant by the accused at _____. The said cheque was presented by the complainant at his bank _____ Bank, (address). Further, the said cheque was processed by the bank of

the complainant. Also, the bank of the accused dishonoured the cheque of the accused at _____ only. The paying bank of the accused intimated the fact of dishonour of cheque to the collecting bank of the complainant at _____ only. The intimation of the dishonour of cheque was also received by the complainant at _____. Also, the Legal Notice to the accused was sent from _____ requiring the accused to make good the payment to the complainant. Therefore, entire cause of action in the present complaint has arisen in _____. Therefore, this Hon'ble Court has the jurisdiction to try and entertain the present complaint.

12. That the complaint is well within its limitation as per the provisions of the Negotiable Instruments Act, 1881.

15. That the Complainant specifically states that no other similar petition/complaint has been filed in this Court or any other Court of Law relating to the cheque and/or transactions in question.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble court may graciously be pleased to:

- 1) Order for the payment of compensation equivalent to double the amount of cheque out of the fine amount U/s 357 Cr.P.C. r/w Sec. 117 of the Negotiable Instruments Act, to the complainant.
- 2) Summon both the accused, try them according to law and award deterrent punishment in accordance with letter and spirit of the provisions of Sec. 138 of Negotiable Instruments Act r/w 141 & 142 of the NI Act, 1881.
- 3) Pass any other/further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

COMPLAINANT

Place: New Delhi

Dated:

Through
NAME OF THE COUNSEL AND ADDRESS

**IN THE COURT OF LD. CHIEF METROPOLITAN MAGISTRATE,
DISTRICT COURT, _____.**

IN THE MATTER OF :

XYZ ... Complainant

Versus

ABC Accused

LIST OF DOCUMENTS

S.NO.	PARTICULARS	PAGES
1.	Original cheque bearing No._____ dated _____ for a sum of Rs. _____/-	
2.	Original cheque returning memo dated _____	
3.	Office Copy of legal notice dated _____	
4.	Copy of the proof of sending legal notice through mail dated _____	
5.	Any other document with prior permission of this Hon'ble Court.	

COMPLAINANT

Place: _____

Dated: _____

Through

NAME OF THE COUNSEL AND ADDRESS

**IN THE COURT OF LD. CHIEF METROPOLITAN MAGISTRATE,
DISTRICT COURT, _____.**

IN THE MATTER OF :

XYZ ... Complainant

ABC

Versus

...

Accused

LIST OF WITNESSES

1. The Complainant;
2. _____Bank., (ADDRESS), through its Manager, and/or concerned officer to produce or cause the production of statement of accounts/ extract of ledger duly certified under the Bankers Books Evidence Act in respect of account of the accused for the period of March 2020 to April 2020;
3. _____Bank., (ADDRESS), through its Manager or concerned official to produce or cause the production of statement of accounts/extract of ledger certified under the Bankers Books Evidence Act in respect of the account of the Complainant for the period of March 2020 to April 2020.
4. Any other person/ witness with the permission of this Hon'ble Court.

COMPLAINANT

Place:

Dated:

Through

NAME OF THE COUNSEL AND ADDRESS

**IN THE COURT OF LD. CHIEF METROPOLITAN MAGISTRATE,
DISTRICT COURT, _____.**

IN THE MATTER OF :

XYZ ... Complainant

Versus

ABC ... Accused

EVIDENCE BY WAY OF AFFIDAVIT

I, Shri _____ at, (address), aged 50 years, the deponent herein, do hereby solemnly affirm and declare as under:

1. That I am the authorized signatory for _____, complainant in the above noted case and am fully conversant with the facts of the case and competent to depose the present affidavit.
2. That the accused no 2 & 3 are the authorized signatory at _____.
3. That the accused approached the deponent for availing the services of _____, the complainant accordingly provided the said services and raised the invoices accordingly, **Ex.CW-1/1**.
4. That at the time of availing the said services, the billing amount raised by the deponent for the services they provided to the accused was Rs. _____/-, **Ex.CW-1/2**.
5. That the accused as per the terms and conditions paid the amount of Rs, _____/- through cheque and balance of Rs. _____/- was left .

6. That the accused thereafter issued various cheques in favour of the complainant to pay the balance amount all of which were dishonoured on the account of funds insufficient.
7. That the deponent again and again requested the accused to pay them for their services, every time in good faith, though the cheques issued by the accused were dishonoured again, for which the accused was served with a legal notice dated _____, **Ex.CW-1/3**.
8. That the accused company in discharge of liabilities towards the complainant, issued a cheque bearing No _____ dated _____ for a sum of Rs. _____/- (Rupees _____ only), drawn on _____ Bank LTD., (address), in favour of the complainant. The accused assured the deponent that the said cheque will be honoured on its presentation, **Ex.CW-1/4**.
9. That the deponent, within the validity of the aforesaid cheque, presented it for the proceeds, in his account through its banker _____ Bank, (address) but the said cheque was received back by the deponent as dishonoured and unpaid through cheque returning memo dated _____ with the remarks "Funds Insufficient", **Ex.CW-1/5**.
10. That the accused had dishonestly and fraudulently issued the aforesaid cheque to and in favour of the complainant, which the

accused knew that on presentation would never be honoured. Had the deponent known that the accused had no intentions to make the payment, the complainant would not have accepted the said cheque, which the accused issued in discharge of his debts and liabilities towards the complainant.

11. That thereafter the complainant, through its lawyer, served a legal notice dated _____ through courier, thereby calling upon the accused to pay the amount of the cheque to the complainant within 15 days from the receipt of the said notice. Through the said notice, the accused was warned before-hand that in the event of their failure to make the payment of the amount of the aforesaid cheque to the complainant within the stipulated period, the accused would commit an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 as amended up to date, and in that case the complainant would be left with no alternative but to take legal proceedings against the accused at the costs and risks of the accused, **Ex.CW-1/6**.

12. That the notices sent to the accused was sent at the correct address, but the accused is intentionally avoiding the service of the notice, by not adhering to it and replying. It shows the mala fide intention of the accused that the accused is not willing to make the payment of dishonoured cheque to the complainant, hence this complaint.

13. That in the aforesaid manner, the accused has committed the offences punishable under Section 138 of the Negotiable Instruments Act, 1881, as amended up to date, read with section 141 and section 142 of the Negotiable Instruments Act, 1881.
14. That this Hon'ble Court has the competent jurisdiction to entertain and try the present complaint as the cheque in question was drawn on and also handed over to the complainant by the accused at _____. The said cheque was presented by the complainant at his bank _____ Bank, (address). Further, the said cheque was processed by the bank of the complainant. Also, the bank of the accused dishonoured the cheque of the accused at _____ only. The paying bank of the accused intimated the fact of dishonour of cheque to the collecting bank of the complainant at _____ only. The intimation of the dishonour of cheque was also received by the complainant at _____. Also, the Legal Notice to the accused was sent from _____ requiring the accused to make good the payment to the complainant. Therefore, entire cause of action in the present complaint has arisen in _____. Therefore, this Hon'ble Court has the jurisdiction to try and entertain the present complaint.
15. That the complaint is well within its limitation as per the provisions of the Negotiable Instruments Act, 1881.

16. That the deponent specifically states that no other similar petition/complaint has been filed in this Court or any other Court of Law relating to the cheque and/or transactions in question.
17. That the complaint is correct, is signed by the deponent being the Karta of the Complainant and is exhibited as **Ex.CW-1/7**.

DEPONENT

VERIFICATION:

Verified at _____ on this _____ day of _____, 2020, that the contents of the aforesaid affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VAKALATNAMA

IN THE COURT OF.....

Suit/Appeal No. JURISDICTION OF 201

In re:-

.....Plaintiff(s) or Petitioner(s)
.....Appellant(s) Complainant(s)

VERSUS

.....Defendant (s)/ Respondent(s) / Accused Know all to whom
these Present shall come that I/we

The above named.....
.....do hereby appoint

(herein after called the advocate/s) to be my / our Advocate in the above – noted case authorize him:-

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High Court subject to payment of fees separately for each court by me/us.

To sign file, verify and present pleadings, appeals cross-objection or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences of disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings on paying separate fee.

To deposit, draw and receive money, cheques, cash and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution on the said case.

To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/we undersigned to hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purpose.

And I/we undertake that I/We or my/our duly authorized agent would appear in court on all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/we undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settle is only for the above case and above Court. I/We hereby agree that once the fee is paid, I /We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHERE OF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on thisDay of.....201 Accepted subject to the terms of the fees.

Advocate

Client

Client

I Identify the Signature/Thumb Impression of Below Mentioned Person,

Signed in My Presence. The Client.