**BEFORE THE COURT OF HON’BLE SPECIAL JUDGE (N.I. ACT) MATHURA**

Complaint No. of 2020

**IN THE MATTER OF:**

Om Prakash Sharma …Complainant

Versus

Garvit Innovative Promoters Limited …Accused

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Complainant

Mathura

Date: Through

**LUMINARIES CHAMBERS**

**Advocates and Law consultants**

ADVOCATES FOR COMPLAINANT,

Chamber No.70, Office of Sh. Fateh Chand Sharma, Advocate,

Near Mangaleshwar Mahadev Temple,

Collectorate compound, District Courts Mathura.

Mobile No. 9319363656, 7017548123

**BEFORE THE COURT OF HON’BLE SPECIAL JUDGE (N.I. ACT) MATHURA**

Complaint No. of 2020

**IN THE MATTER OF:**

Om Prakash Sharma S/O Mohan Lal Sharma,

Aged about 67 Years

R/O H.No.50, Paani Gaon,

P.S. – Jamunapar, District – Mathura …Complainant

**Versus**

1. Karan Pal Singh S/O Kehari Singh, R/O F – 83, Sagar, Ganganagar, Defence Colony, Mawana Road, Meerut, uttar Pradesh Authorised Signatory of Garvit Innovative Promoters Limited.
2. Garvit Innovative Promoters Limited Through Director Karan Pal Singh, F – 83, Ganasagar, Ganganagar, Defence Colongy, Mawana Road, Meerut, Uttar Pradesh.
3. Garvit Innovative Promoters Limited Through CMD, Sanjay Bhati, R/O Plot No.1, Chiti, Gautam Budh Nagar, Greater Noida – 2023202.
4. Garvit Innovative Promoters Limited Through Director Vinod Kumar, R/O Plot No.1, Chiti, Gautam Budh Nagar, Greater Noida – 2023202.
5. Garvit Innovative Promoters Limited Through Director Rajesh Bharadwaj, R/O Plot No.1, Chiti, Gautam Budh Nagar, Greater Noida – 2023202.

P.S. – Kotwali

**COMPLAINT UNDER SECTION 138/142 OF THE NEGOTIABLE INSTRUMNETS ACT, 1881 (AS AMENDED).**

**THE COMPLAINANT ABOVE NAMED MOST RESPECTFULLY SHOWETH:**

1. That the complainant above named is a law abiding citizen residing at the above mentioned address.
2. That the Accused is registered Limited Company deals in the business of Bike Boat.
3. That the accused had entered into an agreement with complainant according to which accused is a registered limited company deal in the business of bike boat. According to the scheme of business accused had get invested 62,100/- Rupees per bike from various persons in the country which is repayable in 12 instalments besides that accused is also giving a monthy rental amount of 4590/- Rupees per month to investors for one bike for 12 months as benefit of investment.
4. That believing upon the terms and conditions of the accused as accused is working as registered company under the companies act complainant had invested a huge amount of money for 7 bikes @ 62,100/- Rupees per bike in Accused’s company for a better future returns.
5. That after getting invested money from the complainant, accused had paid only few installments of rent @ 4590/- Rupees per month and did not paid the whole 12 installments of rent. Besides that accused also did not return the amount of bikes which is invested by complainant for 7 bikes @ 62,100/- Rupees per bike which is returnable in 12 equal installments as per the terms and conditions.
6. That whenever complainant contacts to the accused and enquire about the same accused linger on the issue on one pretext or other but did not return the money of complainant. Thereafter complainant get to know that accused has done the same with various peoples in different states.
7. That when complainant pressurized the accused to return his amount then accused had given a cheque bearing no. **673235** amounting to Rupees **6,93,155**/- dated **01-12-2019** as total balance of complainant along with interest and assures that the same will get enchased whenever presented in bank.
8. That as per instructions and assurances of accused on date **18-12-2019** when complainant presents the above said cheque before the bank for encashment then same was dishonored with a memo mentioning “**Account Blocked**”.
9. That thereafter complainant informed about the dishonor of the above said cheque to accused in consequence of which accused had asked to complainant that why he present the cheque for encashment without directions of the accused due to which complainant was shocked and surprised.
10. That complainant was unable to understand ill-will and malafide desires of the accused and again as per his instructions and assurances presents the above said cheque for encashment before the bank on date **20-01-2020** but the same was again dishonored with a memo mentioning “**Account Blocked**”.
11. That thereafter complainant made several efforts to meet with accused and to tell him about the dishonor of above said cheque but accused never found on his registered address neither his phones were picked up.
12. That again when complainant present the same cheque for encashment on date **20-02-2020** then it was again dishonored with a memo mentioning “**Wrongly delivered**” which assures complainant that accused had cheated him.
13. That as per the above said acts it seems that aforesaid cheque has been issued by accused to the complainant with malafide intentions and further simply to defraud him as accused have knowingly and willfully issued cheque to the complainant despite knowing that his account is blocked.
14. That as per the above said acts it seems that aforesaid cheque has been issued by accused to complainant with malafide intentions and further simply to defraud him as accused have knowingly and willfully issued cheque to complainant in such circumstances when his account is already blocked**. Moreover the malafide intention and fraud committed by the accused is already disclosed when a news was published in Dainik Jagran Daily Hindi Newspaper dated 23rd February 2020 in which it was mentioned that accused’s company had committed fraud with various persons of the country in different states and ED has Raid upon his office and recovered documents related with his assets.**
15. That it seems the aforesaid cheque has been issued with malafide intentions and further simply to defraud the complainant as the accused knowingly and willfully issued the cheque in favour of the complainant when his account is already blocked. It is made clear that the accused is intentionally and willfully does not wants to pay off the debts.
16. That inspite of the assurances given by the accused to the complainant that he will make sufficient arrangements of the funds for the clearance of the cheque, the cheque has been returned unpaid.
17. That the accused has deliberately, knowingly, intentionally and malafidely with the motive to cheat the complainant, issued the cheque, in such circumstance when account from which such cheque has to be en-cashed was already blocked due to acts of accused as he is a habitual cheater or criminal.
18. That the accused was served with a legal notice dated **03-03-2020** through the complainant’s advocate by speed post, by means of that notice, complainant had called upon the accused to make the payment of the cheque. The accused was further in the event of failure, the complainant would take necessary legal action at the risk, responsibility and costs of the accused.
19. That the above said notice has been returned with endorsement dated **09-03-2020** that accused is not found on the address and premises was locked.
20. That the cause of action arose in favour of the complainant and against the accused under section **138/142** of the Negotiable Instrument Act, 1881 immediately on the dishonor of the cheque on dates **18-12-2019, 20-01-2020** & **20-02-2020**, further on unsuccessful service of the Legal notice upon accused on date **09-03-2020**, and more strongly the cause of action further arose as per the clause (c) of proviso to section 138 of the Negotiable Instruments Act, 1881 read with Clause (c) of Sub-section 1 of the section 142, of the same act against the accused persons, on completion of 15 days on **24th March 2020,** after unsuccessful attempt of service of the above said Legal Notice upon the accused. The accused person has failed to pay the amount, as claimed in the legal notice due to his malafide intention to cheat the complainant and not only the complainant but various persons.
21. That the limitation to file the present complaint is starts from **24th March 2020** and continues till **24th April 2020** but due to lockdown and corona crisis courts were closed on **24th March 2020** and open on **8th June 2020** therefore the delay caused is condonable and complaint is being treated as filed under Limitation Period.
22. That by means of aforesaid acts, the accused is rendered himself liable to be prosecuted under section 138/142 of the Negotiable Instrument Act.
23. That the hon’ble court is competent enough to entertain the present complaint as well as to proceed further and punish the Accused.
24. That the present complaint is filed under the limitation period prescribed under section 138 read with section 142 of the Act.
25. That there has been a willful disobedience of the law by the accused.

**PRAYER**

1. It is therefore most respectfully prayed that the accused person may kindly be summoned and punished in accordance with the law for the offences committed by him.
2. Any other order which this court deems fit in the interest of justice may also be passed in favour of complainant and against the Accused.

Mathura Complainant

Date: Through

**LUMINARIES CHAMBERS**

**Advocates and Law consultants**

ADVOCATES FOR COMPLAINANT,

Chamber No.70, Office of Sh. Fateh Chand Sharma, Advocate,

Near Mangaleshwar Mahadev Temple,

Collectorate compound, District Courts Mathura.

Mobile No. 9319363656, 7017548123

**BEFORE THE COURT OF HON’BLE SPECIAL JUDGE (N.I. ACT) MATHURA**

Complaint No. of 2020

**IN THE MATTER OF:**

Om Prakash Sharma …Complainant

Versus

Garvit Innovative Promoters Limited …Accused

**AFFIDAVIT**

I Om Prakash Sharma S/O Mohan Lal Sharma, R/O H.No.50, Paani Gaon, Mathura, aged about 67 years, do hereby solemnly affirm and declare as under:

1. That I am the Complainant in the present complaint u/s 138 N.I. Act filed by me and being conversant with the facts and circumstances of the case, I am competent to swear this affidavit.
2. That the contents of the accompanying complaint shall be read as part and parcel of this affidavit which are not repeated herein for the sake of brevity.
3. That the contents of the present affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

DEPONENT

**VERIFICATION**

Verified at Mathura on this day of June 2020, that the contents of the above affidavit are correct to the best of my knowledge and belief. Nothing material has been concealed therefrom.

DEPONENT

**BEFORE THE COURT OF HON’BLE SPECIAL JUDGE (N.I. ACT) MATHURA**

Complaint No. of 2020

**IN THE MATTER OF:**

Om Prakash Sharma …Complainant

Versus

Garvit Innovative Promoters Limited …Accused

**LIST OF WITNESSES**

1. Complainant Himself.
2. Official/Account officer of the accused banker’s.
3. Postmen/Record Clerk or any official of Post Office.
4. Any other witness with the permission of this Hon’ble Court.

Complainant

Mathura

Date: Through

**LUMINARIES CHAMBERS**

**Advocates and Law consultants**

ADVOCATES FOR COMPLAINANT,

Chamber No.70, Office of Sh. Fateh Chand Sharma, Advocate,

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**LIST OF DOCUMENTS**

* + 1. Original Cheque with Original Bank Memos.
    2. Copy of Legal Notice along with Original Receipt of Speed Post.
    3. Original Returned Legal Notice
    4. Copy of News Published
    5. Copy of Agreement

Complainant

Mathura

Date: Through

**LUMINARIES CHAMBERS**

**Advocates and Law consultants**

ADVOCATES FOR COMPLAINANT,

Chamber No.70, Office of Sh. Fateh Chand Sharma, Advocate,

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Garvit Innovative Promoters Limited …Accused

**EVIDENCE OF COMPLAINANT BY WAY OF AFFIDAVIT UNDER SECTION 145 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881.**

I, Om Prakash Sharma S/O Mohan Lal Sharma R/O H.NO.50, Paani Gaon, Mathura, aged about 67 years, do hereby solemnly affirm and declare as under:

1. That the deponent above named is a law abiding citizen residing at the above mentioned address and she is the complainant in the present matter.
2. That the Accused is registered Limited Company deals in the business of Bike Boat.
3. That the accused had entered into an agreement with complainant according to which accused is a registered limited company deal in the business of bike boat. According to the scheme of business accused had get invested 62,100/- Rupees per bike from various persons in the country which is repayable in 12 instalments besides that accused is also giving a monthy rental amount of 4590/- Rupees per month to investors for one bike for 12 months as benefit of investment.
4. That believing upon the terms and conditions of the accused as accused is working as registered company under the companies act complainant had invested a huge amount of money for 7 bikes @ 62,100/- Rupees per bike in Accused’s company for a better future returns.
5. That after getting invested money from the complainant, accused had paid only few installments of rent @ 4590/- Rupees per month and did not paid the whole 12 installments of rent. Besides that accused also did not return the amount of bikes which is invested by complainant for 7 bikes @ 62,100/- Rupees per bike which is returnable in 12 equal installments as per the terms and conditions.
6. That whenever complainant contacts to the accused and enquire about the same accused linger on the issue on one pretext or other but did not return the money of complainant. Thereafter complainant get to know that accused has done the same with various peoples in different states.
7. That when complainant pressurized the accused to return his amount then accused had given a cheque bearing no. 673235 amounting to Rupees 6,93,155/- dated 01-12-2019 as total balance of complainant along with interest and assures that the same will get enchased whenever presented in bank.
8. That as per instructions and assurances of accused on date 18-12-2019 when complainant presents the above said cheque before the bank for encashment then same was dishonored with a memo mentioning “**Account Blocked**”.
9. That thereafter complainant informed about the dishonor of the above said cheque to accused in consequence of which accused had asked to complainant that why he present the cheque for encashment without directions of the accused due to which complainant was shocked and surprised.
10. That complainant was unable to understand ill-will and malafide desires of the accused and again as per his instructions and assurances presents the above said cheque for encashment before the bank on date 20-01-2020 but the same was again dishonored with a memo mentioning “**Account Blocked**”.
11. That thereafter complainant made several efforts to meet with accused and to tell him about the dishonor of above said cheque but accused never found on his registered address neither his phones were picked up.
12. That again when complainant present the same cheque for encashment on date 20-02-2020 then it was again dishonored with a memo mentioning “**Wrongly delivered**” which assures complainant that you had cheated him.
13. That as per the above said acts it seems that aforesaid cheque has been issued by accused to the complainant with malafide intentions and further simply to defraud him as accused have knowingly and willfully issued cheque to the complainant despite knowing that his account is blocked.
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16. That inspite of the assurances given by the accused to the complainant that he will make sufficient arrangements of the funds for the clearance of the cheque, the cheque has been returned unpaid.
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18. That the accused was served with a legal notice dated 03-03-2020 through the complainant’s advocate by speed post, by means of that notice, complainant had called upon the accused to make the payment of the cheque. The accused was further in the event of failure, the complainant would take necessary legal action at the risk, responsibility and costs of the accused.
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22. That by means of aforesaid acts, the accused is rendered himself liable to be prosecuted under section 138/142 of the Negotiable Instrument Act.
23. That the hon’ble court is competent enough to entertain the present complaint as well as to proceed further and punish the Accused.
24. That the present complaint is filed under the limitation period prescribed under section 138 read with section 142 of the Act.
25. That there has been a willful disobedience of the law by the accused.
26. It is therefore most respectfully prayed that the accused person may kindly be summoned and punished in accordance with the law for the offences committed by him.
27. That the facts contained in the present affidavit are correct to the best of my knowledge and belief and as per the legal knowledge provided to me, nothing material has been concealed there from.

DEPONENT

**VERIFICATION**

Verified at Mathura on this day of June 2020, that the contents of the above affidavit are correct to the best of my knowledge and belief and as per the legal advice provided to me. Nothing material has been concealed therefrom.

DEPONENT