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NEGOTIABLE INSTRUMENT

Guidelines for speedy disposal of cheque bounce cases

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In a recent judgment[1], the Supreme Court has laid down certain directions to criminal courts for speedy and expeditious disposal of cases falling under Section 138 of the Negotiable Instruments Act, 1881.

The Supreme Court was disposing off a writ petition filed by the Indian Bank Association for direction for speedy and expeditious disposal of cheque bouncing cases.

The Supreme Court has issued the following directions :

Cognizance – Metropolitan Magistrate/Judicial Magistrate (MM/JM), on the day when the complaint under Section 138 of the Act is presented, shall scrutinize the complaint and, if the complaint is accompanied by the affidavit, and the affidavit and the documents, if any, are found to be in order, take cognizance and direct issue summons.

Service of summons by post or E-mail – MM/JM should adopt a pragmatic and realistic approach while issuing summons. Summons must be properly addressed and sent by post as well as by e-mail address got from the complainant. Court, in appropriate cases, may take the assistance of the police or the nearby Court to serve notice to the accused. For notice of appearance, a short date be fixed. If the summons is received back un-served, immediate follow up action be taken.

Settlement/ Compounding – Court may indicate in the summon that if the accused makes an application for compounding of offences at the first hearing of the case and, if such an application is made, Court may pass appropriate orders at the earliest.

Defence of accused – Court should direct the accused, when he appears to furnish a bail bond, to ensure his appearance during trial and ask him to take notice under Section 251 Cr.P.C. to enable him to enter his plea of defence and fix the case for defence evidence, unless an application is made by the accused under Section 145(2) for re- calling a witness for cross-examination.

Speedy trial – The Court concerned must ensure that examination-in-chief, cross- examination and re-examination of the complainant must be conducted within three months of assigning the case. The Court has option of accepting affidavits of the witnesses, instead of examining them in Court. Witnesses to the complaint and accused must be available for cross-examination as and when there is direction to this effect by the Court

[1] *Indian Bank Association Vs Union of India (Writ Petition (Civil) No.18 of 2013)*