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	Complainant Appellant		
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## IN THE COURT OF THE XI ADDL. CHIEF METROPOLITAN MAGISTRATE AT SECUNBDERABAD

C.C. No.

OF 2009

Between:

M/s. Mehta and Modi Homes,... having their registered office at 5-4-187/3&4, II Floor, Soham Mansion. M.G.Road, Secunderabad, represented by its Managing Partner Shri Soham Modi S/o Shri Satish Modi Aged 36 years, R/o Hyderabed.

Complainant

AND

Smt.A.Susheela W/o A.Sudhakar Aged 50 years, R/o 304, Mahalakshmi Towers, Shivbagh, Ameerpet. Hyderabad.

Accused

COMPLAINT FILED UNDER SEC. 200 OF CI.P.C. FOR THE OFFENCES COMMITTED U/8 138 & 142 OF N.I. ACT.

Complainant

Mehta and Modi Homes Rep. by its Managing Partner

Shri Soham Modi

2. Name of the Accused

Smt.A.Susheela

Date, time and place of 3. Offence

Cheque No.827455 dated 8.11.2008 for Rs.7,88,000/- drawn on Andhra Bank. Sultan Bazar Branch. llyderabad.

Cheque presented for Collection through IIDIC Bank, Secunderabad Branch

The Cheques returned for reasons Tunds Insufficient" on 25.3.2009

On 2.4.2009 Complainant got issued Notice of Demand for payment to the Accused address as shown in the cause title

Nature of offence

The Cheque is returned for reason of "Insufficient Funds".

**维斯 生产** Offence Under Section 5.

Offence U/s. 138 and 142 of N.I. Act.

б. Penal Section

1

U/s. 138 of N.I. Act.

AND MODI HOMES Parinesi

FOT MIS

7. Name of the P. S P.S.Ramgopalpet

8. List of Witnesses

- 1. M/s: Mehta and Mod! Homes Rep. by its Heneging Partner Sri Scham Modi
- 2. The Branch Manager. Andhre Benk, Sultan Bazar Hyderabad
- 3. The Branch Manager, HDFC Bank Secunderabad Branch

#### BRIEF FACTS:

The Complainant Submits as follows:

- 1. The Complainant is a Builder and Developer and they have developed one such project under the name and style of "Silver Oak" Bungalows, Phase II, situated at Survey No.291, Cherlapalli, Hyderabad -500.051,
- The Accused approached the Complainant for purchase of two Bungalows bearing Nos.228 in the above Venture and accordingly a Booking Form was signed by Accused on 28th November, 2006 and it was agreed for a total sale consideration of Rs.70,42,076/- towards the cost of the plot of land and construction charges for the Bungalow. The above cost includes charges like registration, stamp duty, interest for delayed payment upto 18.3.2009 and other expenses. Accordingly, the Accused made an aggregate payment of Rs.56,21,600/- and a balance amount of Rs.14.20.476/- was due from Accused towards a part payment of the balance, the Accused issued a cheque bearing No.827455 dated 8.11.2008 for Rs.7.88,000/- drawn on Andhra Bank, Sultan Bazar Branch, Hyderabad.
- 3. The Complainant presented the said cheque through their Bankers HDFC Bank, Secunderabad Branch on 25.3.2009 for encashment. the utter shock and surprise of the Complainant, the said cheque has been returned with an endorsement Insufficient Funds vide Banker's Memo dated 25.3.2009. The Complainant informed about the dishonour of cheque and the Accused promised to pay the amount covered under the said cheque within a couple of days but she failed keep up her promises

- 3. It is respectfully submitted that, thereafter the complainant through their Advocate, got issued a legal notice dated 2.4.2009 to the Accused demanding for payment of the said Cheque amount within 15 days from the date of receipt of the said notice and the said legal notice sent through Registered Post with Ack. Due was served on the Accused but failed to comply with the notice.
- 4. It is respectfully submitted that issuing cheque without having sufficient funds in the bank account is an offence punishable under Section 138 of Negotiable Instruments Act, 1881 as amended by Act 55 of 2002. Therefore, the Accused is liable for her illegal acts and omissions which also amounts to an offence punishable U/S.420 of Indian Penal Code.
- 5. It is respectfully submitted that, by her illegal and malafide action, the Accused has rendered herself liable to be prosecuted for the Offence committed by him under Section 138 of N.I.Act, 1881 as amended by Act 55 of 2002.

#### 6. CAUSE OF ACTION:

The cause of action for the complaint arose when the Accused issued cheque on 8.11.2008 towards balance payment of the cost of bungalow, on 25.3.2009 when the Complainant presented the cheque their Banker and on 25.3.2009 when the when the cheque is returned dishonoured for the reason of "Insufficient funds" by the Banker of Accused and on 2.4.2009 when the Complainant got issued a notice and on 6.4.2009 when the Accused received the said notice but failed to comply with the notice and the cause of action is still subsisting.

### 7. JURISDICTION:

This Hon'ble court has got jurisdiction to entertain this Complainant since the Complainant's registered office is situated at Soham Mansion, M.G.Road, Secunderabad which is within the territorial jurisdiction of this Hon'ble court.

#### 8. <u>LIMITATION:</u>

The Criminal Complaint is within time as prescribed under Law HOME

For Mis Marin, AND Mul Partners

#### 9. PRAYER:

The Complainant prays that this Hon'ble court may be pleased

- to take cognizance of the offence punishable under section 138 of Negotiable Instruments Act; ati ing open dependentish time and pala open
  - Issue summons and punish the Accused as per law;
  - Award double the amount of cheque towards compensation under section 357 (3) of Cr.P.C. to the Complainant and
  - pass such other order or orders as this Hon ble court may deem fit and proper, in the interest of justice."

SECUNDERABAD DATE: 23.4.2009

BOT MIS. MEHTEN AND MODI HOWER COMPLAINANT

COUNSEL FOR THE COMPLAINANT

#### VERIFICATION

的位于6号。[6] 对于第一次解除自己**介绍于自由的构成**数据以下在中国运动。

I, Soham Modi 5/o Sri Satish Modi, Managing Partner of the Complainant Firm, do hereby declare and state that the facts stated in the complaint are true and correct to the best of my knowledge, belief and AND KODYNORD N intormation. Hence verified on this the 23<sup>rd</sup> day of April Secunderabad. FOT M/s. MEHTA

**SECUNDERABAD** Date: 23-4-2009

COMPLAINANT Partners

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S.No. Date	Description of document	7.75
1. 8.11.2008	Cheque No.827455 for Rs.7,88,000	
	drawn on Andhra Bank, Sultan Baz: Hyderabad copy	
marit edil to i di		
	Return memo – copy	
3.199	l egal Notice - Xerox copy	
4. G.4.2009	Postal acknowledgement - copy	

The originals of all the documents will be submitted at th FOT M/s, M

SECUNDERABAD DATE: 23.4.2009

: 10 1485

COMPLAININGTON

COUNSEL FOR THE COMPLAINANT

# IN THE COURT OF THE XI ADDL. CHIEF METROPOLITAN MAGISTRATE AT SECUNBOLITAND

C.C. No.

OF 2009

Belween:

M/s.Mehta and Modi Homes
... Complainant

And

Smt.A.Susheela

Accused

OMPLAINT FILED UNDER SEC. 200 OF Cr.P.C.FOR THE OFFENCES COMMITTED U/s. 138 & 142 OF N.I. ACT.

FILED ON: 23.4,2009

FILED BY:

Sri C.BALAGOPAL Advocate

Address for Service.

Flat No.103, Harivillu Apts Road No.11, West Marredpally Secunderabad. Ph: 64570512/9246172988

COUNSEL FOR THE COMPLAINANT