

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 Hyderabad.

... COMPLAINANT

AND

Smt.P.UMA KUMARI W/o P.Thakur Prakash
Aged 49 years, occupation:
R/o Plot No.71, Silver Oak Bungalows
Phase I, Sy.Nos.35 to 39,
Cherlapally, Hyderabad.

... ACCUSED

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

1. Complainant : Mehta and Modi Homes
Rep. by its Managing Partner
Shri Soham Modi
2. Name of the Accused : Smt.P.Uma Kumari
3. Date, time and place of Offence : Cheque No.091458 dated 28.3.2009
for Rs.8,47,500/-
Cheque No.091459 dated 28.3.2009
for Rs.9,05,000/-
Both cheques drawn on
A.P. Mahesh Co-Op. Urban Bank Ltd,
M.G.Road, Secunderabad.

Cheque presented for Collection
through HDFC Bank, Secunderabad
Branch

The Cheques returned for reasons
'Insufficient Funds' on 2.4.2009

On 6.4.2009 Complainant got issued
Notice of Demand for payment to the
Accused address as shown in the
cause title.
4. Nature of offence : The Cheque is returned for reason
of "Insufficient Funds".



5. Offence Under Section : Offence U/s. 138 and 142 of N.I. Act.
6. Penal Section : U/s. 138 of N.I. Act.
7. Name of the P. S : P.S.Ramgopalpet
8. List of Witnesses : 1. M/s.Mehta and Modi Homes
Rep. by its Managing Partner
Sri Soham Modi
2. The Branch Manager,
A.P.Mahesh Co-Op. Urban Bank,
M.G.Road, Secunderabad.
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, situated at Survey No.291, Cherlapally, Hyderabad - 500 051.

2. The Accused had approached the Complainant for purchase of a Bungalow bearing No.256 in the above Venture and accordingly a Booking Form was signed by the Accused on 10.10.2006 and it was agreed for a total sale consideration of Rs.56,50,000/- towards the cost of the plot of land and construction charges for the Bungalow. The above cost excludes charges like registration, stamp duty and other expenses. Accordingly, the Accused have made an aggregate payment of Rs.41,68,100/- and a balance amount of Rs.20,76,241/- was due from the Accused. The Accused issued two cheques towards the balance sale consideration as follows:

1. Cheque No.091458 dated 28.3.2009 for Rs.8,47,500/-
2. Cheque No.091459 dated 28.3.2009 for Rs.9,05,000/-

Total Rs.17,52,500/-

both cheques drawn on A.P. Mahesh Co-Op. Urban Bank Ltd, M.G.Road, Secunderabad.



3. The Complainant presented the said cheque through their Bankers HDFC Bank, Secunderabad Branch for encashment. But to the utter shock and surprise of the Complainant, the said cheque has been returned with an endorsement "Insufficient Funds" vide Banker's Memo dated 2.4.2009. The Complainant informed about the dishonour of cheque and the Accused promised to pay the amount covered under the said cheques within a couple of days but failed keep up her promise.

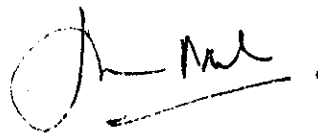
4. It is respectfully submitted that, thereafter the complainant through its Advocate, got issued a legal notice dated 6.4.2009 to the Accused demanding for payment of the said Cheque amounts within 15 days from the date of receipt of the said notice and the said legal notice sent through Registered Post with acknowledgement due was served on the Accused but failed to comply with the notice but got issued a reply dated 23.4.2008 with all false and baseless allegations and raised several untenable pleas.

5. 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.

6. 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.

7. CAUSE OF ACTION:

The cause of action for the complaint arose when the Accused issued cheques on 28.3.2009 towards balance payment of the cost of bungalow, on 1.4.2009 when the Complainant presented the cheque its Banker and on 2.4.2009 when the when the cheques were returned dishonoured for the reason of "Insufficient funds" by the Banker of Accused and on 6.4.2009 when the Complainant got issued a notice and on 18.4.2009 when the Accused received the said notice but failed to comply with the notice and the cause of action is still subsisting.



8. 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.

9. LIMITATION:

The Criminal Complaint is within time as prescribed under Law.

10. PRAYER:

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

- a). to take cognizance of the offence punishable under section 138 of Negotiable Instruments Act;
- b). Issue summons and punish the Accused as per law;
- c). Award double the amount of cheques towards compensation under section 357 (3) of Cr.P.C. to the Complainant and
- d). pass such other order or orders as this Hon'ble court may deem fit and proper, in the interest of justice.

SECUNDERABAD
DATE: .5.2009


COMPLAINANT

COUNSEL FOR THE COMPLAINANT

VERIFICATION

I, Soham Modi S/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 information. Hence verified on this the day of May, 2009 at Secunderabad.

SECUNDERABAD
Date: -5-2009


COMPLAINANT

LIST OF DOCUMENTS

S.No.	Date	Description of photocopies of documents	
1.		Certificate of incorporation	
2.		Authorisation letter	
3.	28.3.2009	Cheque No.091458 for Rs.8,47,500/- drawn on A.P. Mahesh Co-Op. Urban Bank Ltd, M.G.Road, Secunderabad. - copy	
4.	28.3.2009	Cheque No.091459 for Rs.9,05,000/- drawn on A.P. Mahesh Co-Op. Urban Bank Ltd, M.G.Road, Secunderabad. - copy	
4.	2.4.2009	Return memo - copy	
5.	6.4.2009	Legal Notice - copy	
6.	18.4.2009	Postal acknowledgement - copy	
7.	23.04.2009	Reply of Accused	

The originals of all the documents will be submitted at the time of trial.

SECUNDERABAD
DATE: .5.2009


COMPLAINANT

COUNSEL FOR THE COMPLAINANT

