

FAIR COPY
IN THE COURT OF THE HON'BLE XI ADDL CHIEF METROPOLITAN
MAGISTRATE: AT SECUNDERABAD

C.C.No: 3099 OF 2016

Between:

Akhilesh Sood,
 S/o. Late Sri D L Sood,
 R/o.15, Polisetty Enclave, Vikrama Puri,
 Secunderabad, Rep. by his Special Power of
 Attorney Holder L.Ramacharyulu, R/o.Flat No.406,
 Sree Homes, Kotha Pet, Saroornagar, Hyderabad, COMPLAINANT

AND

Ms.M Malini Menon,
 D/o.Mr.M.Madhava Menon
 H.No.37-39-135/2, Rd.No.4,
 Madhura Nagar,
 Neredmet X Roads,
 Secunderabad-500 094

Also at HDFC Bank,
 H.No.6-1-73, Saeed Plaza,
 Hyderabad – 5000_004. ACCUSED

COMPLAINT FILED UNDER SECTION 200 OF Cr.P.C. R/W SECTION
138 OF NEGOTIABLE INSTRUMENTS ACT, 1881

1. Name and description
 of the complainant : Akhilesh Sood
 having his office, 15, Polisetty Enclave,
 Vikrama Puri, Secunderabad
 Rep. by his Special Power of
 Attorney Holder L.Ramacharyulu,
 R/o.Flat No.406,
 Sree Homes, Kotha Pet, Saroornagar,
 Hyderabad.
2. Name and Description
 of the accused : Ms.M Malini Menon,
 D/o.Mr.M.Madhava Menon
 H.No.37-39-135/2, Rd.No.4,
 Madhura Nagar,
 Neredmet X Roads,
 Secunderabad-500 094

 Also at HDFC Bank,
 H.No.6-1-73, Saeed Plaza,
 Hyderabad – 5000_004.
3. Nature of Offence : U/Sec 138 Negotiable Instruments Act.
4. Dates of Offence : 12.08.2016
5. Jurisdiction of P.S. : Karkhana P.S

6. List of Witnesses : 1) The Complainant
2) The Manager
Corporation Bank, Gunrock Enclave
Branch, Secunderabad

7. **Facts of the case**

- 1) The Complainant is the owner and possessor of Plot No. 900 in Sy.No. 218/1, admeasuring 350 Sq.yrds situated at Defence Colony, Malkajigiri Mandal, RR District., having purchased the same from the previous owners. The Complainant had applied and obtained permit for construction from GHMC for a residential complex consisting of 6 flats. The Accused approached the Complainant for purchasing one flat bearing No.301 on the third floor admeasuring 1110 Sqft. With a undivided share of land to an extent of 58.33 Sq.yrd., alongwith a parking area admeasuring 100 Sqft. In the stilt area. The complex is named as "AKAR". It was agreed that the total sale consideration would be for Rs.35,74,000/- which is exclusive of VAT, Service Tax, Misc. Charges, interest on delayed payments, Corpus Fund which comes to a sum of Rs.39,22,982/- and the Accused had paid an amount of Rs.32,30,300/-. The Accused was given a discount of Rs.2,78,000/- therefore after deducting all the payments made by the Accused till date she is still due and payable an amount of Rs.4,14,682/-. The Accused issued a cheque for Rs.71,000/- dtd.26.7.2016 bearing Cheque No.000083 drawn on HDFC Bank, Ravipuram Branch, Kochi, Kerala State towards part payment of the balance amount payable by the Accused to the Complainant towards the cost of the apartment purchased by the Accused.
- 2) The above cheque was received by the Complainant subject to realisation. The Complainant presented the said cheque for clearance through his banker Corporation Bank, Gunrock Enclave Branch, Secunderabad on 12.08.2016. To the utter surprise and dismay of the Complainant, the above said Cheque presented for realization was returned unpaid vide Cheque Return Memo dated 16.08.2016 for the reason "Funds Insufficient". The return of Cheque for the said reason is an offence punishable U/Sec.138 Negotiable Instruments Act and also amounts to cheating punishable U/s 420 of I.P.C. The Accused issued the cheque knowing very well that the said cheque will be dishonoured for want of funds with dishonest intention to cause wrongful loss to the Complainant. Thus, the Accused has committed an offence punishable U/Sec.138 of Negotiable Instruments Act and U/s 420 of I.P.C.

- 3) The complainant got issued a notice dated 26.08.2016 as required under law and the said notice was received by the accused on 01.09.2016 and she has not chosen to give any reply. The Complainant submits that his bank wherein the cheque was presented for clearance is situated at Gunrock Enclave, Secunderabad which is within the territorial jurisdiction of this Hon'ble Court.
- 4) The accused by the dishonour of cheque for the reason "Funds Insufficient" has committed an offence punishable U/S 138 of N.I Act and also amounts to cheating punishable U/S 420 of I.P.C. Further, knowing very well that the said cheque will be dishonored when there is no sufficient funds, with dishonest intention to cause wrongful loss to the complainant.

8. **Cause of action:**

The Cause of Action arose on 26.07.2016 the dates of the cheque, on 16.08.2016 the date of the return memo, on 26.08.2016 the date of the notice, when the Accused failed to pay the amount covered under the cheque dated 26.07.2016, on 01.09.2016 when the notice was received by the accused.

9. **Prayer:**

The Complainant therefore prays that this Hon'ble Court may be pleased to take cognizance of the offence committed by the Accused under section 138 of Negotiable Instruments Act and summon the Accused and punish the Accused as per law and direct the Accused to deposit double the amount of cheque and permit the Complainant to withdraw the same and to pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for Complainant
Hyderabad.
Date: 15.09.2016

COMPLAINANT
(Rep.by Special Power of Attorney Holder)

VERIFICATION

I, Mr.L.Ramacharyulu s/o. Late Sri. L Raghavendra Rao, and Special Power of Attorney Holder of the complainant, R/o. Hyderabad, do hereby declare that the facts mentioned above are true and correct to the best of my knowledge and belief. Hence verified.

Hyderabad.
Date: 15.09.2016

COMPLAINANT
(Rep.by Special Power of Attorney Holder)

LIST OF DOCUMENTS

01. Xerox copy of the cheque nos. 000083 for Rs.71,000/- dated 26.07.2016.
drawn on HDFC Bank, Ravi Puram Branch, Kochi, Kerala State.
02. Xerox copy of the return memo of the complainant banker dated 16.08.2016
03. Xerox copy of Office copy of the Advocate Notice dated 26.08.2016,
04. Xerox copy of Postal Receipt dated 31.08.2016.
05. Xerox copy of Postal Acknowledgement dated 1.09.2016
06. Original Special Power of Attorney of the complainant
07. Xerox copy of Sale Deed dtd. 28.08.2015

Originals will be produced at the time of trial.

Hyderabad.
Date: 15.09.2016

COMPLAINANT
(Rep.by Special Power of Attorney Holder)

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..COMPLAINANT

AND

Ms.M Malini Menon,
.. ACCUSED

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SECTION 200 OF Cr.P.C. R/W
SECTION 138 OF NEGOTIABLE
INSTRUMENTS ACT, 1881

Filed on: **15.09.2016**

Filed by:

SRI. C. BALAGOPAL
Advocate

103, Harivillu Apartments,
West Marredpally,
Secunderabad.
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