

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

C.C. No: OF 2017

Modi & Modi Constructions, represented by its
Managing Partner Sri. Soham Modi,
S/o. Late Sri Satish Modi, R/o. 5-4-187/3&4,
II Floor, Soham Mansion, M.G.Road,
Secunderabad, authorized signatory,
....., R/o.Hyderabad, ... Complainant

AND

1. D. Chandra Shekar Reddy, S/o. Late Sri. D. Rami Reddy, aged..... yrs
2. ~~D. Swapna W/o. D. Chandra Shekar Reddy, aged yrs~~

Both R/o. Bangalow No. 40, Nilgiri Homes,
Sy. No. 128 to 136, Rampally Village,
Kushiguda Mandal, Medchal Distict. ... Accused

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

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|----|------------------------------------|---|--|
| 1. | Complainant | : | M/s. Modi & Modi Constructions, |
| 2. | Name of the Accused | : | 1. D. Chandra Shekar Reddy,
2. Smt. D. Swapna |
| 3. | Date, time and place of
Offence | : | <ol style="list-style-type: none"> 1. Cheque No. 557658 dtd. 11.05.2017
For Rs. 51,227/- 2. Cheque No. 557659 dtd. 11.05.2017
For Rs. 1,10,000/- <p>Both cheques drawn on Andhra Bank,
R.P. Road Branch, Secunderabad.</p> <p>The Cheques returned for reasons
'Insufficient funds' on 15.05.2017</p> <p>On 06.06.2017 Complainant got issued
Notice of Demand for payment to the
Accused address as shown in the cause
title.</p> |
| 4. | Nature of offence | : | The Cheques were returned for the
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.
 2. The Branch Manager,
HDFC, Secunderabad Branch,
Secunderabad
 3. The Branch Manager,
Andhra Bank, R.P. Road Branch,
Secunderabad

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 "Nilgiri Homes" at Rampally Village, Malkajgiri Mandal, Medchal District, (old Ranga Reddy District).

2. The Accused No.1 of had entered into a contract with the Complainant for purchase of Bungalow No. 40 in the above project and accordingly a Booking Form was signed by the Accused No.1 on 15.11.2012... and subsequently a sale deed dtd...28.11.2012 for the Bungalow No. 40 in the above project and the same was registered as Doc. No...7456/2012. The total cost of Bungalow is Rs. 43,05,000/-

3. The Accused had paid an amount of Rs. 41,05,000/- only. The Accused had expressed their inability to pay the balance Rs. 2,00,000/- (Rupees Two Lakhs only). At that point the Complainant agreed to extend a loan of Rs. 2,00,000/- (Two Lakhs only) and the Accused had also executed a loan agreement dated 01.08.2014 in which the EMI payable by the Accused by way of post dated cheques was agreed upon. The Accused had also executed a receipt of Rs. 2,00,000/- received from the Complainant.

4. The Accused had issued the following two cheques totaling to an amount of Rs. 1,61,227/- (One Lakh Sixty One Thousand Two Hundred & Twenty Seven only) towards loan plus interest due on balance loan which were signed by the Accused No.1.

S. No.	Date	Cheque No.	Amount in Rs.	Presented on	Returned on
1.	11.05.2017	557658	51,227.00	14.05.2017	15.05.2017
2.	11.05.2017	557659	1,10,000.00	14.05.2017	15.05.2017

The above cheques are drawn on Andhra Bank, R.P. Road Branch, Secunderabad. The Complainant presented the above cheques for clearance through its banker HDFC Bank Ltd., Secunderabad Branch. The Cheques were presented on 14.05.2017, but to its utter shock and surprise the cheques were returned with endorsement **"INSUFFICIENT FUNDS"**. The Complainant informed the Accused regarding the return of the cheques. The Accused had promised to arrange for the payments of the above cheques but have failed to do so.

4. The Complainant submit that dishonour of cheque for the reason of "Insufficient Funds" is an offence punishable U/s 138 of Negotiable Instruments Act and also amounts to cheating punishable U/s 420 of I.P.C. The Accused No.1 issued the cheque with dishonest intention to cause wrongful loss to the Complainant by not maintaining sufficient funds in his account. Thus, the Accused committed an offence punishable U/s 138 of Negotiable Instruments Act and U/s 420 of I.P.C., and liable for punishment according to Law.

5. It is respectfully submitted that, thereafter the complainant through their advocate, got issued a notice dated 06.06.2017 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 notice sent through Regd. Post with Ack. Due, the Accused refused to receive the same and the same was returned.

6. It is respectfully submitted that issuing cheques 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 his illegal acts and omissions which also amounts to an offence punishable U/S.420 of Indian Penal Code.

7. It is respectfully submitted that, by their illegal and malafide action, the Accused have rendered themselves liable to be prosecuted for the offence committed by them U/S. 138 of N.I.Act, 1881 as amended by Act 55 of 2002.

8. CAUSE OF ACTION:

The cause of action for the complaint arose when the Accused issued cheque dated 11.05.2017, on 14.05.2017 when the cheques was presented, on 15.05.2017 when the cheque was returned as dishonoured for the reason of "Insufficient funds" by the Banker of Accused and on 06.06.2017 when the Complainant got issued a notice and on when the Accused refused to receive the said notice and the cause of action is still subsisting.

9. JURISDICTION:

This Hon'ble court has got jurisdiction to entertain this Complainant since the banker of the Complainant is situated within the territorial jurisdiction of this Hon'ble court.

10. LIMITATION:

The Criminal Complaint is within time as prescribed under Law.

11. 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 cheque 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:

COMPLAINANT

COUNSEL FOR THE COMPLAINANT

VERIFICATION

I..... s/o. Sri....., and authorized signatory 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.

SECUNDERABAD
Date:

COMPLAINANT

LIST OF DOCUMENTS

S.No.	Date	Description of document	
1.	11.05.2017	Cheque No. 557658 for Rs.51,227/- drawn on Andhra Bank, R.P. Road Branch, Secunderabad - copy	
2.	11.05.2017	Cheque No. 557659 for Rs.1,10,000/- drawn on Andhra Bank, R.P. Road Branch, Secunderabad - copy	
3.	15.05.2017	Return memo - copy	
4.	06.06.2017	Notice - Office copy	
5.		Return Cover	
6.		Authorisation letter	

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

SECUNDERABAD
DATE:

COMPLAINANT

COUNSEL FOR THE COMPLAINANT

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

C.C. No. OF 2017

Between:

M/s. Modi & Modi Constructions
.. Complainant

And

D. Chandra Shekar Reddy & another
.. Accused

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

FILED ON :

FILED BY:

Sri C.BALAGOPAL
Advocate

Address for Service:

Flat No.103, Suresh Harivillu Apts
Road No.11, West Marredpally
Secunderabad.
Ph: 9441782451

COUNSEL FOR THE COMPLAINANT

Details of the Case:

The Complaint if filed u/s 138 of N.I.Act

CASE NO.	COURT	COMPLAINANT	DEFENDANTS	FIRM/PROJECT/ UNIT NO.
S.R.NO 6269 OF 2017	XI ACMM SECUNDRAB AD	MODI & MODI CONSTRUCTIONS	D.CHANDRASEKAR REDDY	BUNGALOW NO.40 NILGIRI HOMES RAMPALLY (V) MEDCHAL DIST.

The Private Complaint is filed U/S 200 of Cr.p.c and the Honble Court Summoned the Accused persons for the offence U/s 138 of N.I.Act.

Gist of the Case:

The Accused entered in to an agreement to purchase a villa bearing no.40 in the Nilgiri Homes Rampally village Medchal District, and sale deed was registered. The Accused was due an amount of Rs.2,00,000/- out of total sale consideration and accused shown his inability to pay for which complainant extend a loan and executed a agreement along with receipt, and the accused issued 2 Cheques and the same was dishonored with insufficient funds.

LIST OF DOCUMENTS:

S.No.	Document Date	Document Type / No.	Original Available	Copy Available	Remarks If any
1.	11-05-2017	Cheque bearing No557658 Andhra Bank for Rs.51,227/-	Filed in Court	Yes	
2.	11-05-2017	Cheque bearing No557659 Andhra Bank for Rs.1,10,000/-/-	Filed in Court	Yes	

3.	15-05-2017	Cheque return Memo	Filed in Court	Yes	
4.	06-06-2017	Notice	Filed in Court	Yes	
5.		Return covers	Filed in Court	Yes	
6.	01-07-2017	Authorization Letter	Filed in Court	Yes	
7.	01-08-2014	Loan Agreement	Filed in Court	Yes	
8.	01-08-2014	Receipt	Filed in Court	Yes	
9.	28-11-2012	Copy of Sale Deed	Filed in Court	Yes	