**PLEADING IN CASE INVOLVING NEGOTIABLE INSTRUMENTS**

Negotiable Instrument act was enacted in India much before its independence and therefore most of provisions contained in it are based on the English statute. After independence in 1947, certain modifications were made in Act in order to stringent the provisions of the Act and in that sequence, an attempt is made out by the Indian legislature to incorporate chapter XVII namely **“Of Penalties in case of Dishonor of certain cheques for insufficiency of Funds in the Accounts”** contains Section 138 to 142 with an objective to encourage the trend of use of cheques and to increase the credibility of cheques transactions.

**Statutory Aspects:**

**Section 138:** An offence committed under Section 138 is a non-cognizable offence (a case in which a police officer cannot arrest the accused without an arrest warrant). Also, it is a bailable offence.

1. Drawing of Cheque by the drawer for the discharge of debt or other liability

2. Presentation of Cheque within 6 months form the date on which it is drawn

3. Dishonor of cheque and return unpaid by the drawee bank

4. Statutory Notice within 30 days of receipt of information from the bank regarding the return of cheque as unpaid to the drawer demanding payment of cheque amount

5. Failure to make payment by the drawer within 15 days from the date of receipt of Notice;

**Punishment:** Imprisonment fora term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both.

**IN THE COURT OF JUDICIAL MAGISTRATE SARGODHA**

**Cr. Complaint No. \_\_\_\_\_\_\_of \_\_\_\_\_\_\_\_.**

**……………Complainant.**

**Versus**

**…………Accused/Respite.**

**Complaint Under section 138 and 142 of the Negotiable Instrument Act, 1881.**

**Respectfully Sheweth:-**

**1. That the accused issued one cheque bearing No. \_\_\_\_\_\_\_ dated\_\_\_\_\_\_\_\_ for a sum of Rs. \_\_\_\_\_\_\_\_\_drawn on \_\_\_\_\_\_\_\_\_\_\_ for a lawful valuable consideration in discharge of his liability in favor of the complainant.**

**2. That the complainant presented the said cheque lastly on \_\_\_\_\_\_\_\_\_\_ which was returned unpaid by drawee Bank vide returning Memo dated \_\_\_\_\_\_\_\_ for the reasons `Insufficient Funds`. The said cheque was presented within its validity period and stood dishonored on presentation.**

**3. That the complainant got a notice issued through his counsel dated \_\_\_\_\_\_ under registered AD cover and UPC to the accused demanding the amount of the dishonored cheques within 15 days of the receipt thereof which was duly served upon him on (Date) \_\_\_\_\_\_\_\_. It is submitted that the Registered cover containing the notice was received back as unclaimed as the accused has deliberately avoided the service of the notice, however the notice sent through UPC stood served upon the accused on (Date)\_\_\_\_\_\_\_, the copy of notice with postal receipt/ UPC and envelope containing notice is filed with the complaint.**

**4. That the accused person has not cared to make the payment of the number of dishonored cheques to the complainant within 15 days as required under the law as demanded in the notice.**

**5. That the cause of action for filing the complaint arose to the complainant within the jurisdiction of this learned court when the accused failed to make the payment of the cheques in dispute to the complainant with in 15 days of the receipt of notice.**

**6. That the accused is guilty of an offence under section 138 of the Negotiable Instrument Act, 1881 and is liable to be punished under section 142 of the said Act.**

**It is, therefore, prayed that the accused person be proceeded against and punished in accordance with law as envisaged under section 142 of the Negotiable Instrument Act in accordance with law. Complainant**

**Through Advocates**

**Place: \_\_\_\_\_\_\_\_\_**