

THE HIGH COURT AT CALCUTTA

No. 2301-RG

Dated: 22.04.2022

**PRACTICE DIRECTIONS TO BE FOLLOWED BY THE COURTS DEALING WITH
CASES UNDER SECTION 138 OF N.I. ACT, 1881.**

In compliance of the order of Hon'ble Supreme Court of India dated 16.04.2021 passed in Suo Motu Writ Petition (Criminal) No. 2/2020 titled "*In Re: Expeditious Trial of Cases under Section 138 of Negotiable Instrument Act 1881*", the following directions are hereby issued for the Courts/Magistrates functioning under the jurisdiction of the High Court at Calcutta: -

1. The Magistrates of first class/Metropolitan Magistrates having jurisdiction are directed to try the offences under the Negotiable Instruments Act, 1881, under summary procedure as enumerated under Section 143 of the said Act. They are further directed to record reasons for converting trial of complaints under Section 138 of the said Act from summary trial to summons trial. The conversion of summary trial to summons trial shall not be in the mechanical manner.
2. In all complaints filed under Section 138 N.I. Act inquiry shall be conducted on receipt of the complaints to arrive at sufficient grounds to proceed against the accused, when such accused resides beyond the territorial jurisdiction of the court.
3. For the conduct of inquiry under Section 202 of the Cr.P.C., evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.
4. All Trial Courts/Magistrates shall treat service of summons in one complaint under Section 138 of N.I. Act forming part of a transaction, as deemed service in respect of all complaints filed before the same Court relating to dishonour of cheques issued as part of the said transaction.

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5. Trial Courts/Magistrates have no inherent power to review or recall the issue of summons in relation to complaint filed under Section 138 of N.I. Act. However, the same shall not affect the power of the Trial Court under Section 322 of Cr.P.C. to revisit the order of issue of process in case it is brought to the court's notice that it lacks jurisdiction to try the complaint.

6. The Appellate Courts before which appeals against the judgments in complaints under Section 138 of N.I. Act are pending are directed to make an effort to settle the dispute through mediation.

These practice directions shall come into force with immediate effect.

By Order,

Sd/-

Registrar General,

High Court, Calcutta.