

HIGH COURT OF JUDICATURE APPELLATE SIDE
AT BOMBAY

C I R C U L A R

In compliance of the order of Hon'ble the 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 Honourable the Chief Justice has been pleased to issue the following practice directions : -

1. The magistrates having jurisdiction to try offences under the Negotiable Instruments Act, 1881 (in short N.I. Act), shall record cogent and sufficient reasons before converting a complaint under section 138 of the N.I. Act from summary trial to summons trial in exercise of power under the second proviso of section 143 of N.I. Act. Due care and caution shall be exercised in this regard and the conversion of summary trial to summons trial shall not be in a mechanical manner.
2. On receipt of any complaint under section 138 of N.I. Act, wherever it is found that any accused is resident of the area beyond the territorial jurisdiction of the magistrate concerned, an inquiry shall be conducted by the magistrate to arrive at sufficient grounds to proceed against the accused as prescribed under section 202 of Cr.P.C.
3. While conducting any such inquiry under section 202 of Cr.P.C., the evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the magistrate may restrict the inquiry to examination of documents without insisting for examination of witnesses for satisfaction as to the sufficiency of grounds for proceeding under the said provision.

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4. Trial Court shall treat service of summons in one complaint under section 138 of the N.I. Act forming part of a transaction, as deemed service in respect of all complaints filed before the same Court relating to the dishonor of cheques issued as a part of the same transaction.
5. Trial Courts 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. Section 258 of Cr.P.C. has no applicability to complaints under section 138 of the N.I.Act. The words "as far as may be" in section 143 are used only in respect of applicability of sections 262 to 265 of the Code and the summary procedure to be followed for trials under the said Code.
7. The appellate courts before which appeals against the judgments in complaint under section 138 of the 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.

Strict compliance of the above directions be insured.

**HIGH COURT OF JUDICATURE
APPELLATE SIDE, BOMBAY**

Dated : 27th JANUARY 2022

By Order

Sd/-

**Mahendra W. Chandwani
(Registrar General)**