

Negotiable Instruments Act, 1881 (26 of 1881) - Section 138, 145 - Guide- lines / Directions to be followed by all courts for speedy and expeditious disposal of cases - The Court has option of accepting affidavits of the witnesses, instead of examining them in Court - Witnesses to the complaint and accused must be available for cross-examination as and when there is direction to this effect by the Court.

Held, that the directions are issued to all the courts, trying the offences :

- (1) Metropolitan Magistrate/Judicial Magistrate (MM/JM), on the day when the complaint under Section 138 of the Act is presented, shall scrutinize the complaint and, if the complaint is accompanied by the affidavit, and the affidavit and the documents, if any, are found to be in order, take cognizance and direct issuance of summons.
- (2) MM/JM should adopt a pragmatic and realistic approach while issuing summons. Summons must be properly addressed and sent by post as well as by e-mail address got from the complainant. Court, in appropriate cases, may take the assistance of the police or the nearby Court to serve notice to the accused. For notice of appearance, a short date be fixed. If the summons is received back un-served, immediate follow up action be taken.
- (3) Court may indicate in the summon that if the accused makes an application for compounding of offences at the first hearing of the case and, if such an application is made, Court may pass appropriate orders at the earliest.
- (4) Court should direct the accused, when he appears to furnish a bail bond, to ensure his appearance during trial and ask him to take notice under Section 251Cr.P.C. to enable him to enter his plea of defence and fix the case for defence evidence, unless an application is made by the accused under Section 145(2) for re-calling a witness for cross-examination.
- (5) The Court concerned must ensure that examination-in-chief, cross-examination and reexamination of the complainant must be conducted within three months of signing the case. The Court has option of accepting affidavits of the witnesses, instead of examining them in Court. Witnesses to the complaint and accused must be available for cross-examination as and when there is direction to this effect by the Court.

2014 PLRonline 6165
