

NIA S. 138 - “account maintained by him” - If an account holder is deprived off his control and authority, over the bank account, it cannot be said that the account is being maintained by the said account holder - Foremost requirement to maintain a complaint under S. 138 of the NI Act is that the cheque issued by the account holder must be from the account maintained by account holder with the drawer - Bank for discharge in whole or in part of any debt or other liability - Complaint quashed

Held, expression “account maintained by him” cannot be construed narrowly to mean that if the account belongs to the accused, the necessary ingredient would be complete - This expression must necessarily include that the said account is not only alive and operative, but the account holder is capable of executing command to govern the financial transactions which include the clearance of cheques etc. - The authority and control of the account holder upon the account must exist on the effective date i.e. when the cheque becomes valid for presentation in the bank.

IBC S. 14

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