

Negotiable Instruments Act, 1881 (26 of 1881), S. 138 – Security cheque – Aspects would prima facie indicate that there was a transaction between the parties towards which a legally recoverable debt was claimed by the appellant and the cheque issued by the respondent was presented – On such cheque being dishonoured, cause of action had arisen for issuing a notice and presenting the criminal complaint under [Section 138](#) of N.I. Act on the payment not being made – The further defence as to whether the loan had been discharged as agreed by respondent and in that circumstance the cheque which had been issued as security had not remained live for payment subsequent thereto etc. at best can be a defence for the respondent to be put forth and to be established in the trial – In any event, it was not a case for the Court to either refuse to take cognizance or to discharge the respondent in the manner it has been done by the High Court – Therefore, though a criminal complaint under Section 420 IPC was not sustainable in the facts and circumstances of the instant case, the complaint under section 138 of the N.I Act was maintainable and all contentions and the defence were to be considered during the course of the trial – IPC, S. 420.

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