**Criminal complaint u/s 138 of the Negotiable Instruments act & section 420 of the Indian penal code**

**IN THE COURT OF THE JUDICIAL MAGISTRATE, FIRST CLASS, (COURT NO. 2), MUMBAI AT MUMBAI**

Criminal Complaint No. /2010..

Shri .... S .... T .... D ...., )

age 35 years, occupation - business, ) Complainant

resident of 1111 Goregaon, )

MUMBAI 400 011. )
Versus

Shri .. I .. S .. D )

age 30 years, occupation - business, ) Accused

resident of 1050 Goregaon, )

MUMBAI 411 01l. )

A COMPLAINT U/S 138 OF THE NEGOTIABLE INSTRUMENTS ACT & SECTION 420 OF THE INDIAN PENAL CODE

The complainant abovenamed submits this complaint, praying to state as follows:

1. That the complainant is a resident of the within mentioned address, and he has been running his business of hardware in the name and style as M/s STD Sales Corporation, MUMBAI.

2. That the accused had been a customer of the complainant for the last ten years purchasing goods from time to time.

3. That since there has been business relationship between the complainant and the accused and also that the complainant could repose faith in the accused, he used to accept the cheques issued by the accused against the purchased by the accused.

4. That during the recent past, there have been various transactions between the complainant and the accused as detailed below:

5. That the complainant submits and says that the above mentioned cheques were issued by the accused at the time of delivery of goods and materials supplied to him by the complainant, with an implied promise on the part of the accused that on the presentment of these cheques, they will be honoured.

6. That, however, all these cheques, have been dishonoured by the bankers of the complainant, and the same have been returned to the complainant with endorsement "Insufficiency of Funds in the Account of the Drawer".

7. That the complainant says that had the complainant known that the cheques issued by the accused would be dishonoured, the complainant would never have delivered the materials and goods to the accused.

8. That the complainant does hereby reiterate that the cheques which were issued by the accused in discharge of his liability have been dishonoured for the reason of insufficiency of funds in his account.

9. That the complainant is also surprised that since the date of dishonour of cheques, he has been making serious and sincere efforts to contact the accused personally, but unfortunately the accused has been at large and not being available, and his whereabouts are also not known to the complainant.

10. That taking into consideration such a typical position created by the accused, the complainant has come to a tacit conclusion and also inferred that the accused took the delivery of goods by deceiving and cheating the complainant when he issued the cheques knowing it fully well that he had neither sufficient balance in his bank account, nor had he made any alternative arrangements for crediting the necessary amount against the same.

11. That from the total behaviour on the part of the accused, it is apparent that he is not only liable civilly but also guilty of the criminal offences under the provisions of criminal laws particularly under section 420 of the Indian Penal Code 1860 and under section 138 of the Negotiable Instruments Act 1881.

12. That the cheques were presented to the bankers of the complainant on…. the same were returned to the complainant on......for....insufficiency of funds in his account.

13. That the complainant has accordingly served a notice, dated…….on the accused, demanding payment of the said amount of Rs. 80,000/-, but the accused did not do so, and hence, this complaint.

14. That the cause of action for this complaint first arose on….. and hence, this complaint filed today is well within limitation.

15. That the offence has been committed within the local limits of the jurisdiction of this Court, and hence, this Hon'ble Court has jurisdiction to try and decide this complaint.

16. That the necessary court-fee is paid herewith.

17. That the complainant, therefore, prays that -

(A)The accused be charged with and tried for the offence punishable u/s 138 of the Negotiable Instruments Act and also u/s 420 of the Indian Penal Code and punished according to law;

(B)This complainant be awarded from the accused the said amount of Rs. 80,000/- along with interest @ 18% p.a. from the date of the issue of the said cheques till the date of payment; and

(C) Any other orders in the interest of justice be kindly passed.
MUMBAI,

Sd/- STD

COMPLAINANT

Dated:……………..

Sd/- xX x

ADVOCATE FOR COMPLAINANT

**VERIFICATION**

I, Shri STD, the present complainant, do hereby state on solemn affirmation that the contents of this complaint in paras 1 to 17 are true and correct to the best of my knowledge and belief, and so I have signed hereunder.

Sd/- DMK COMPLAINANT