

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU
(Office of the Registrar General at Jammu)

CIRCULAR

No: 05/RG

Dated: 05/04/2022

In view of the directions passed by the Hon'ble Supreme Court in Suo Moto Writ petition (Criminal) No.2 of 2020 regarding Expeditious Trial of cases under section 138 of N.I Act 1881, all the Principal and District Session Judges, U.T of J&K and U.T of Ladakh are directed to ensure compliance of the below mentioned **practice directions** by the Courts of Magistrate(s) under their respective jurisdiction(s) dealing and adjudicating matters emanating under Section 138 N.I.Act, 1881.

- 1) *The Magistrates to record reasons before converting trial of complaints under Section 138 of the Act from summary trial to summons trial.*
- 2) *Inquiry shall be conducted on receipt of complaints under Section 138 of the Act to arrive at sufficient grounds to proceed against the accused, when such accused resides beyond the territorial jurisdiction of the court.*
- 3) *For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.*
- 4) *To treat service of summons in one complaint under Section 138 forming part of a transaction, as deemed service in respect of all the complaints filed before the same court relating to dishonour of cheques issued as part of the said transaction.*
- 5) *In view of the judgments of the Hon'ble Supreme Court in Adalat Prasad and Subramaniam Sethuraman, there is no inherent power of Trial Courts to review or recall the issue of summons. This does not affect the power of the Trial Court under Section 322 of the Code 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.*

By order.

Encl: Copy of Judgment
dated 16.04.2021


(Sanjeev Gupta)
Registrar General

No: 12190-12235/RG/L.S

Dated: 05/04/2022

Copy of the above forwarded to:

1. Principal Secretary to Hon'ble the Chief Justice, High Court of J&K and Ladakh, Jammu.
2. Secretary to Hon'ble Mr/Mrs. Justice _____
..... for information of their Lordships.

3. Registrar Vigilance, High Court of J&K and Ladakh, Jammu.
4. Director, J&K Judicial Academy, Jammu.
5. Registrar Rules, High Court of J&K and Ladakh, Jammu.
6. Registrar Judicial, High Court of J&K and Ladakh, Jammu/Srinagar
7. All Principal District & Session Judges of UTs of J&K and Ladakh with the request to circulate the same to all the courts within their respective jurisdictions for information and compliance of the aforesaid directions.
8. CPC, eCourts, High Court of J&K and Ladakh, Jammu for getting the same uploaded on the official website of the High Court.
9. Incharge Library, High Court of J&K and Ladakh, Jammu/Srinagar, for information and for keeping the record of the same.
10. Order File

15-6-22
Registrar General