



***Writ- Cheque bounce cases***

APRIL 9, 2020

E-mail: [info@amicusservices.in](mailto:info@amicusservices.in)

Website: [www.amicusservices.in](http://www.amicusservices.in)

---

---

## **Supreme Court suo motu registers writ to address delays in cheque bounce cases**

The Supreme Court recently took cognizance of delays in disposal of cheque bouncing matters under section 138 of the Negotiable Instruments Act, 1881 (“the NI Act”). A writ petition has been registered and notice has been issued to the Union of India, Registrars General of all High Courts, Directors General of Police of all States and Union Territories, and the Member Secretary of the National Legal Services Authority. The Reserve Bank of India and the Indian Bank Association, Mumbai have also been impleaded as the representatives of banking institutions.

While dealing with a special leave petition in relation to a cheque dishonour case registered under the NI Act, which had taken 15 years to reach the Apex Court, the Bench comprising of Chief Justice Bobde and Justice L. Nageswara Rao expressed their concern over the delay in a matter, the procedure was in the nature of a summary trial to be completed in a span of six months. The Bench noted that the delays were largely owing to the high pendency of these cases before district courts, which in turn was attributable to a delay in ensuring presence of accused in the case. In fact, the Bench observed that almost 18 lakh cases were pending for appearance of the accused.

### **1. Need to evolve system for service of process**

The Court recognized the reluctance by police to pay heed to processes issued in private complaints and the although trial courts were aware of this, there was seldom any action taken against police personnel. The Apex Court suggested coercive steps such as attachment of property of the accused, including movable property, to secure the presence so as to reduce the complainant’s burden of having to pay the process fee repeatedly. The Apex Court also explored the possibility of banks to facilitate measures wherein funds from the account of the accused would be transferred to that of the complainant, upon issuance of suitable directions from the Court.

---

## 2. Role of banks in information sharing

As banks play an important role in cheque bounce cases, the Court suggested the development of an information sharing mechanism by banks and even suggested that such information sharing mechanism could include the account holder's name, email id and mobile number on the dishonour memo issued by the bank. The Apex Court also suggested that as part of the system overhaul, the Reserve Bank of India ("RBI") could also develop measures to facilitate speedy trials. Developing a software to keep a track of processes served on accused persons in NI Act cases was also proposed by the Court.

## 3. Proforma of cheques

The Bench also recommended issuance of a new proforma for cheques by the RBI to include details of the purpose for which the cheque was issued so that misuse of cheques could be precluded, and real issues could be adjudicated by the trial courts.

## 4. Settlement

The Court observed that there was a need for devising a system for pre-litigation settlement. The Legal Services Authorities Act, 1987 provides for a statutory mechanism for disposal of case by Lok Adalat at pre-litigation stage under Sections 19 and 20 of the Act. Further, Section 21 of the Act, recognises an award passed by Lok Adalats as a decree of a civil court and gives it a finality. It was suggested that the National Legal Services Authority, evolve a scheme for settlement of dispute relating to cheque bounce at a pre-complaint stage.

*Disclaimer: Amicus Insights is published only to provide overview of issues arising out the subject matter covered. It is not and should not be treated as a substitute for legal or regulatory advice. Readers are advised to seek specific guidance from their advisors on impact of the issues covered in this publication.*