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A DETAILED GUIDE ON PURSUING LEGAL ACTION FOR CHEQUE BOUNCE

INTRODUCTION

One of the most frequent offences affecting the financial industry is bounced cheques. The Supreme Court estimates that the number of such pending cases in the nation exceeds 40 lakh. A cheque might be returned for a number of reasons, the most frequent ones being a mismatch in the signatures on the cheque and insufficient cash in the account of the person who wrote it. So what should you do if you receive a faulty cheque?

Process Outline for Filing an Action Regarding Cheque Bounce

The following describes the exact steps involved in filing a legal action in India when a cheque bounces:

- **Sending Out a Legal Notice**

Sending a legal notification to the defaulter is the initial step in handling a bounced cheque. The payee or holder of the bounced cheque is required by Section 138 of the Negotiable Instruments Act, 1881, to provide a legal notice to the drawer of the dishonoured cheque within 30 days upon becoming aware of the bounce. The notice must specify that the cheque amount must be paid within 15 days of the notice being received.

- **Registering a Complaint**

You may register a complaint with the relevant jurisdictional magistrate court if the drawer fails to pay within 15 days of receiving the legal notification. The complaint must be submitted within a month of the 15-day notice period ending.

When submitting the complaint, you must submit the following paperwork:

- i. The cheque that bounced.
- ii. The original court order.
- iii. A document proving the check has been rejected unpaid.
- iv. a list of any available witnesses.
- v. Additional pertinent data.

- **Legal Proceedings**

Following the filing of the complaint, the court will start with the legal procedure. The bounced cheque's drawer will receive a summons to appear in court. A warrant for the drawer's arrest might be issued if they fail to show up. Both parties will present evidence during the trial, and the court will decide the case on its merits.

- **Penalties and Reimbursement**

The drawer may be sentenced to up to two years in jail and/or a fine that exceeds the amount of the cheque if the court concludes that the drawer committed a check bounce. In addition, under Section 138 of the Negotiable Instruments Act, the drawer may be required to reimburse the payee up to twice the amount of the cheque that was issued.

- **Make an appeal**

Within 30 days of the verdict, any party may file an appeal of the judgment. If there are sufficient grounds for disagreement, the appeals process enables a higher court to reevaluate the case.

- **The process of implementation**

The payee can take legal action to enforce the court's decision if the drawer disobeys the order. This may include seizing the drawer's properties or bank accounts in order to get the compensation and amount on the written document.

LANDMARK CASE LAWS

1. K. Bhaskaran v. Sankaran Vaidhyan Balan and Anr 7 SCC 510 (1999)

The Supreme Court of India clarified the fundamental legal concepts pertaining to cheque bounce instances in this landmark case. It concluded that the complainant had to demonstrate the

following in order to be found guilty under Section 138 of the Negotiable Instruments Act of 1881:

- a) The check was written off as payment for the settlement of a debt or liability.
- b) The check was submitted to the bank throughout its validity period.
- c) The bank returned the cheque unpaid.
- d) This case served as a reminder that the complainant has the burden of proof and must prove beyond a reasonable doubt all material aspects of the offense.

2. Dashrath Rupsingh Rathod v. State of Maharashtra and Anr 7 SCC 510 (2014)

The Indian Supreme Court elaborated on the purview of Section 142 of the Negotiable Instruments Act in this particular case. It was decided that the court could bring in the accused after receiving a complaint about a cheque bounce. Just because an accused individual lives outside the court's jurisdiction does not excuse them from making a personal appearance in court. This ruling highlighted the court's authority to require the accused's attendance at the trial.

CONCLUSION

In India, there is a clear procedure for launching a lawsuit once a check bounces, which includes sending out a legal warning, registering a complaint, and attending court. It is important that you adhere to the legal process with diligence and present all relevant documentation and proof to support your claims. Seeking legal advice from a knowledgeable lawyer can be very helpful in navigating the court system's complexity and guaranteeing a favorable result in matters involving cheque bounces.