

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SURAT  
AT SURAT.

Criminal Case No. of 2002.

COMPLAINANT :

- (1) Surat Nagrik Sahakari Bank Limited.  
A registered Co-operative Society,  
Doing Banking Business, Having its Head office at :  
Behind Gitanjali Theatre, Varachha Road, Surat.
- (2) Nainesh Arvindbhai Chitaniya  
Aged about : 33 years, Occupation : Service,  
Address : Surat Nagrik Sahakari Bank Limited, Behind  
Gitanjali Theatre, Varachha Road, Surat.

VERSUS

ACCUSED :

- (1) Home Trade Limited  
Having its office at : Tower - 4, 5<sup>th</sup> floor, Vashi Rly.  
Station Complex, NAVI MUMBAI - 400703.
- (2) Mr. Sanjay H. Agrawal  
Resi. of : Juhu, Shalimar C.H.S. Ltd., Seventh Floor,  
Gulmohar Floor, Gulmohar Cross Road No.10, Juhu,  
MUMBAI - 400049.
- (3) Mr. Nanskishore Shankerlal Trivedi  
Resi. of : Dev Bhuvan, 2<sup>nd</sup> floor, Room No. 32, Gazdar  
Mohallo (Street), Chira Bazar, MUMBAI - 400002.
- (4) Mr. Ketan Kantilal Sheth  
Resi. of : 193, Lalit Kutir (C.H.S.), Third Floor,  
Gulmohar Cross Road No.9, (J.V.P.D. Scheme), Juhu,  
MUMBAI - 400049.
- (5) Mr. Subodh Bhandari  
Resi. of : 704-B, Govind Complex, Sector No.14,  
Vashi, Wubre, NAVI MUMBAI - 400705.
- (6) Mr. Hiten Bhupendra Shah  
Resi. of : 102, Gandhi Niwas, Ashok Nagar Road,  
Vakola, Santacruz, MUMBAI - 400055.
- (7) Mr. Shashank Gopal Ranade  
Address : 3/1, Radhakrishna Niwas, Ground Floor,  
Daagadi Wadi, S.K. Bole Road, Dadar (C.W.J.)  
MUMBAI - 400028.
- (8) Mr. Dhannanjay Agrawal  
Address : Tower - 4, 5<sup>th</sup> floor, Vashi Railway Station  
Complex, NAVI MUMBAI - 400703.

(9) Mr. Hiren Gada  
Address : Tower - 4, 5<sup>th</sup> floor, Vashi Railway Station  
Complex, NAVI-MUMBAI - 400703.

(10) Mr. Vijay Himmatlal Modi  
Address : A - 203, Anita Co-op. Housing Society Ltd.  
Kulupawadi Road, Borivalli (East),  
MUMBAI - 400066.

(11) Mr. Salil Dinkarlal Gandhi  
Address : 11/13, Goldcoin Co-op. Housing Soc. Ltd.,  
Tardeo, MUMBAI - 400043.

(12) Mr. Rasal Baankkem Vegar  
Address : Timber Hill Terrace, Ion Field,  
M.A. 1940, (U.S.A.)

(13) Mr. Mike laias Manoj Ambelal Shah  
Address : Belari Road, R.M.V. Extension,  
BANGALORE - 506080

(14) Smt. Shilpa Hiten Shah  
Address : 102, Gandhi Niwas, Ashoknagar Road,  
Wakola, Santacruz, MUMBAI - 400055.

(15) Smt. Jagruti Ketan Sheth  
Address : 193, Lalit Kutir (C.H.S.), Third Floor,  
Gulmohar Cross Road No.9, (J.V.P.D.),  
MUMBAI - 400049.

(16) Miss. Kaaran Mevawala  
Address : Jayant Mahal, 5<sup>th</sup> floor, Opp. Wankhede  
Stadium, Marine Drive, MUMBAI.

(17) Mr. Ketan R. Maskaria  
Address : Tower - 4, 5<sup>th</sup> floor, Vashi Railway Station  
Complex, NAVI MUMBAI - 400703.

COMPLAINT UNDER SECTION 138<sup>214</sup> OF THE NEGOTIABLE  
INSTRUMENTS ACT.

The Complainant above named with due respect submit as under :---

(1) That the Complainant No.1 Surat Nagrik Sahakari Bank Ltd. is a Co-operative Society doing business of banking at it's above address and Complainant No. 2 is the officer of Complainant No.1 Bank. The Board of Directors of the Complainant No.1 Bank by a Resolution dated 24/05/2002 authorized Complainant No.2 to lodge a complaint against the accused.

(2) The Complainant No.1 who is here under referred as Bank is a Registered Co-operative Society, registered under the provisions of The Gujarat Co-operative Societies act, 1961, having its Registration Number as 55039 - A73 dated March 15, 1973. That, the Complainant Bank is also functioning under the provision of Banking Regulation Act, 1949, and that, Reserve Bank of India has given License No. 1087-P on September 04, 1994.

(3) That the Accused No. 2 to 15 represented that accused No. 1 is a registered Company authorized to deal in Government and Non-Government Securities etc. That, Accused No.2 represent to be the Chairman and Executive Officer of Accused No. 1 Company. That, Accused Nos. 3 to 15 are the Directors of accused No. 1 Company, and that, Accused Nos. 16 & 17 are the Manager and employee of Accused No. 1 Company respectively. That, Accused Nos. 2 to 15 are actively dealing with day-to-day affairs of the Accused No. 1 Company, and there fore, actually and legally bound and liable for all the acts and deeds for and on behalf of Accused No. 1 Company.

(4) As per the directions of Reserve Bank of India, The Co-operative Banks had to invest in Government Securities, to comply SLR requirements. It was represented by the accused that they are authorized by SEBI to sell and purchase Government Securities, so the Complainant No. 1 transacted to purchase and sell Government Securities through the accused since last Five (5) years. Due to long dealing with accused no. 1 Company, the accused had created a trust and faith in the complainant Bank and relying on the assurances and promises for physical delivery of the security, the complainant bank was induced to purchase Government Security namely GOI 2017 8.07 worth Rs.15 crores. The Trade date was 20/02/2002 and the settlement date was 21/02/2002. The complainant had made payment for the said purchase to the accused through cheque.

(5) But the accused had failed to deliver the said securities and there fore, the Complainant bank made repeated demands for the delivery of the same. The accused had assured to deliver the said securities orally as well as in writing, the details of which are not mentioned here for the present, and will be disclosed at the relevant time.

(6) The accused with their letter dated 04/04/2002 had forwarded two cheques aggregating to Rs. 16,84,40,658-33 Ps. Inter alias stating that if the stock is not delivered, the said cheques be deposited on respective dates. The details of the cheques are as under :---

<u>Sr.No.</u>	<u>Name of Bank</u>	<u>Cheque No.</u>	<u>Date</u>	<u>Amount</u>
(1)	HDFC Bank	984290	14/06/02	7,85,47,058-33
(2)	-- do --	984291	21/06/02	8,98,93,600-00
			Total Rs.	16,84,40,658-33

(7) The accused had failed to deliver securities. The said cheques which were tendered by the accused towards the legal dues of the complainant bank and as per the intimation and assurance, the complainant had deposited the cheque dated 14/06/2002 on the due date which came to be returned without being honoured, with an endorsement of "Account Blocked" on date 17/06/2002. Similarly the complainant had tendered the cheque dated 21/06/2002 on due date which came to be returned without being honoured with an endorsement " Account Blocked" on date 22/06/2002.

(8) The accused had assured and promised the complainant that the said cheques will be honoured on due date of presentation but, the accused had failed to keep the necessary funds in their account on the day on which the cheques were presented, and thereby, they have committed an offence under section 138 of The Negotiable Instruments act. So the complainant had given a statutory notice under Negotiable Instruments Act through their Advocate Jatin J. Gandhi on date 01/07/2002 by Regd.A.D. Calling upon the accused to pay Rs.16,84,40,658-33 ps. (being the total amount of two returned and unpaid cheques) within 15 days of receipt of the said notice. At the same time the accused were informed of legal action against them under the Negotiable Instruments Act, in the event of their failure to make the payment within stipulated time. The said notice was acknowledged by the accused No.4,6,7,11,12,13,14,15 & 16 on and around 05/07/2002 and the notice sent to the other accused were returned back.

(9) Even after the expiry of 15 days grace period allowed to the accused to make the payment, the accused failed to send the sum of Rs. 16,84,40,658-33 ps. being the face value of the said returned and unpaid cheques. The complainant has lodged a separate complaint for being cheated and the detail facts have been stated therein.

(10) That the act of the accused have rendered themselves liable to be prosecuted under the Negotiable Instrument act, 1881 as amended by the Amending Act 66 of 1988.

(11) That the complainant has been filed within one month from the date of expiry of 15 days after the service of the notice of dishonor of the cheques.

(12) That the complainant will rely upon the documents and witnesses a list whereof is annexed hereto and keeps it right open to add to this list any other witness and documents if found necessary.

(13) There fore the complainant prays that :---

(A) This Honorable Court may be pleased to take the case on file and all the accused may kindly be summoned, tried and punished according to law for the offences committed by them.

DATE: 3/8/02  
SURAT.

Advocate for Complainant.

**WITNESSES:**

(1) The Manager / Officer  
HDFC Bank,  
Parle Point.  
Surat.

(2) Any other witness if needed.