

Dishonour of Cheque Cases in India: An Efficiency Analysis

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This study analyzes backlog of dishonor of cheque cases in India, especially under the Negotiable Instruments Act, 1881. Section 143(3) deals with complaints regarding cheque dishonour cases. Under Section 138 they are to be concluded within six months from the date of filing the complaint. However, they seldom reach finality before three or four years with repercussions on new investments, ease of business, etc. Market exchange system is applied to understand how courts dealing with Section 138 can mimic the working and objectives of an efficient exchange system. The transaction taking place in the exchange is the compensation of the loss to the receiver of the cheque owing to its dishonour. This exchange has features that will be applied in terms of attaining allocative, productive and distributive efficiencies to maximize surpluses in cheque transactions primarily by addressing the mounting transaction costs in disputes. Notwithstanding delays and pendency, there is no empirical data to quantitatively measure/substantiate this assertion and to ascertain the reasons for it. Accordingly, data from judgments delivered during 2014-2017 by the Supreme Court, and Delhi, Bombay, Madras and Calcutta High Courts have been collected to find out reasons for the backlog. They have been narrowed down to adjudication time on cases which have procedural issues or are frivolous, compromise on victim's interest of debt recovery and mandatory settlement. The method of resolving Section 138 cases is effective to reduce the adjudication time of the courts. Relevant variables are put to statistical tests and their results interpreted.

I Introduction

Statistics indicate that out of the total cases in the courts today, around 16 per cent are related to Section 138 of the Negotiable Instruments Act, 1881. Further 20 per cent cases in criminal courts pertain to Section 138 (Daksh Report 2017, Law Commission of India, 2008). Section 143(3) of the Act requires the complaints in regard to cheque dishonour cases under Section 138 to be concluded within six months from the date of filing the complaint. However, such cases take on an

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