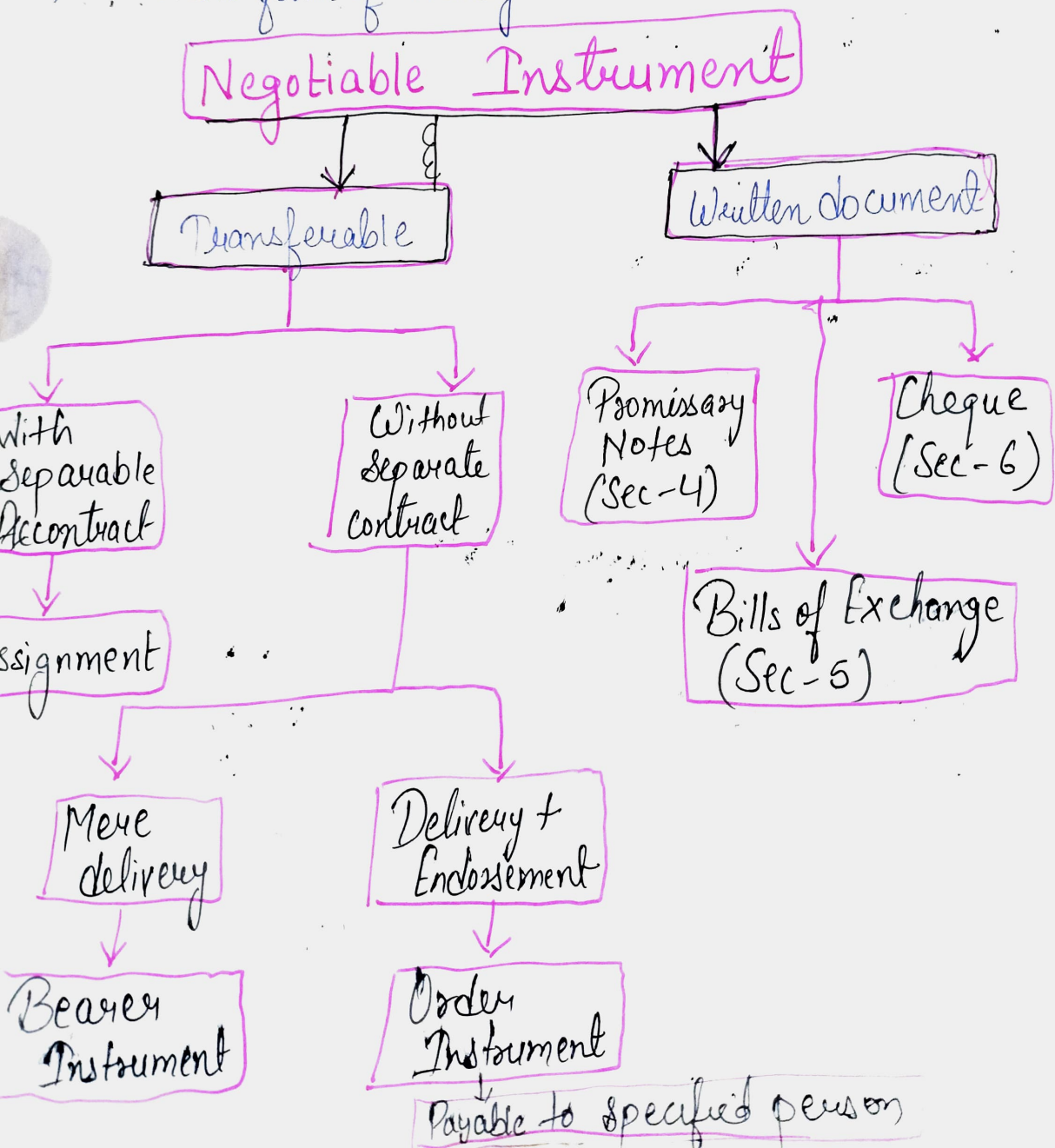


# Chapter-7 The Negotiable Instrument Act, 1881

Negotiable :- Negotiable instrument is an instrument which is freely transferable from one person to another, either by endorsement and delivery or by mere delivery.

Instrument :- It is a written document creating a right in favour of a certain person in form of money.



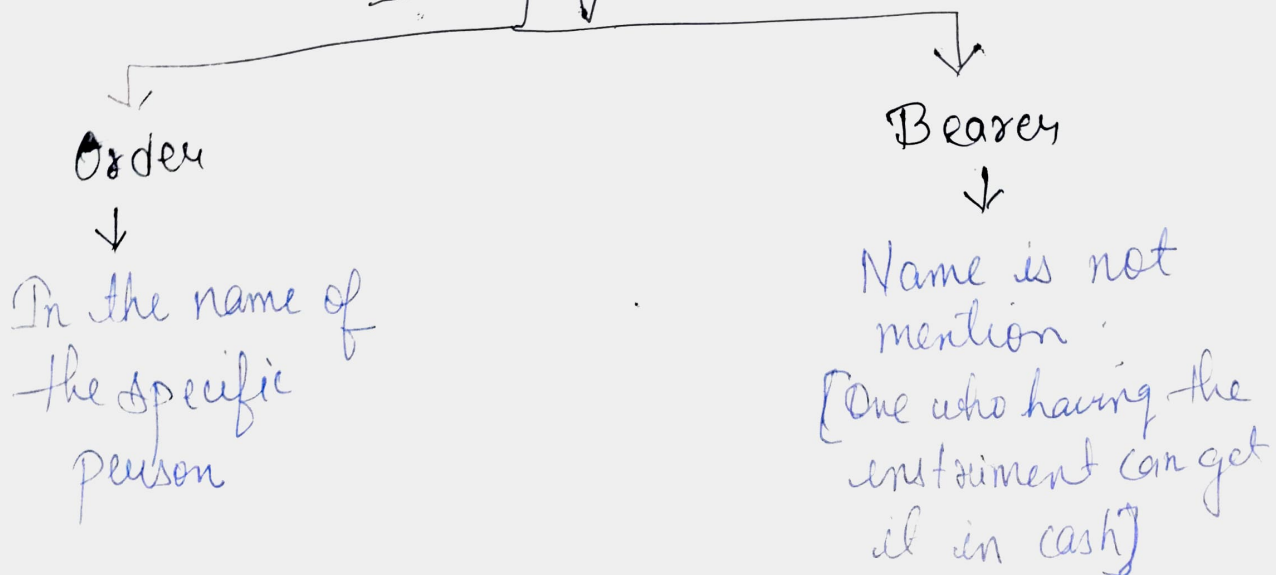
# Essential Elements of Negotiable Instrument

- ① It is necessarily in writing
- ② It should be Signed
- ③ It is freely transferable
- ④ Holder's title is free from defects
- ⑤ It can be transferred any number of times
- ⑥ The promise or order to pay must consist in money only.
- ⑦ The instrument should be delivered.
- ⑧ The sum payable, the time of payment, the payee must be certain.

## Promissory Note (Section-4)

Promissory Note :- An unconditional undertaking signed by the maker of the instrument to pay a certain sum of money only to, or to the order of, a certain person, or to bearer of the instrument.

### Promissory Note



# Essential Characteristics of P/N

① Writing :- Oral promise is not sufficient  
E.g. [A says to B that he will give ₹ 1,00,000 after 1 month]

② Express Promise :- An acknowledgement of debt is not sufficient

E.g. Mr. X  $\xrightarrow[50,000]{\text{Owe}}$  Mr. Y

③ Promise :- Definite & Unconditional  
However, if a promise is based on a condition which is bound to happen then such a promise is valid promise.

E.g. [P promises Q that he will pay ₹ 10,00,000 on the death of Mr. X then, it is a valid promissory note.]

④ Signed by the Maker

⑤ Money Only

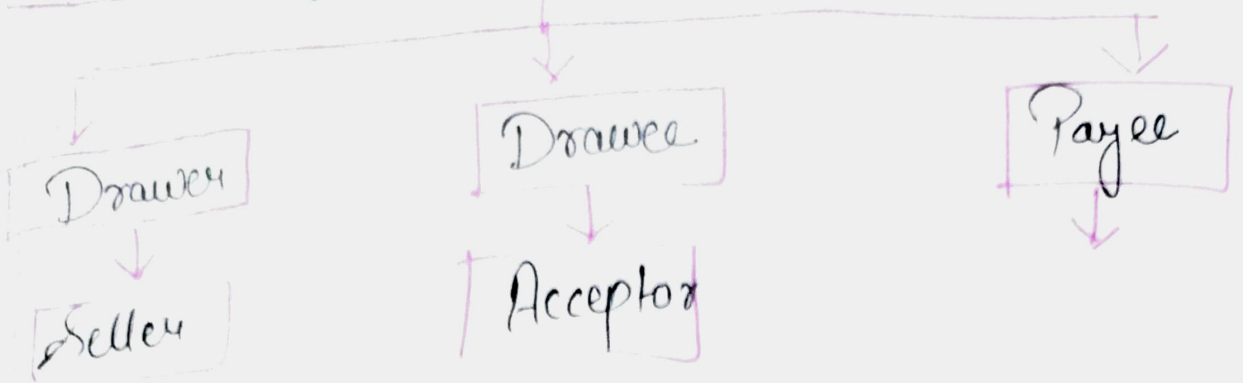
⑥ Certain Sum

⑦ Stamping

⑧ Maker + Payee  
Certain & Different person

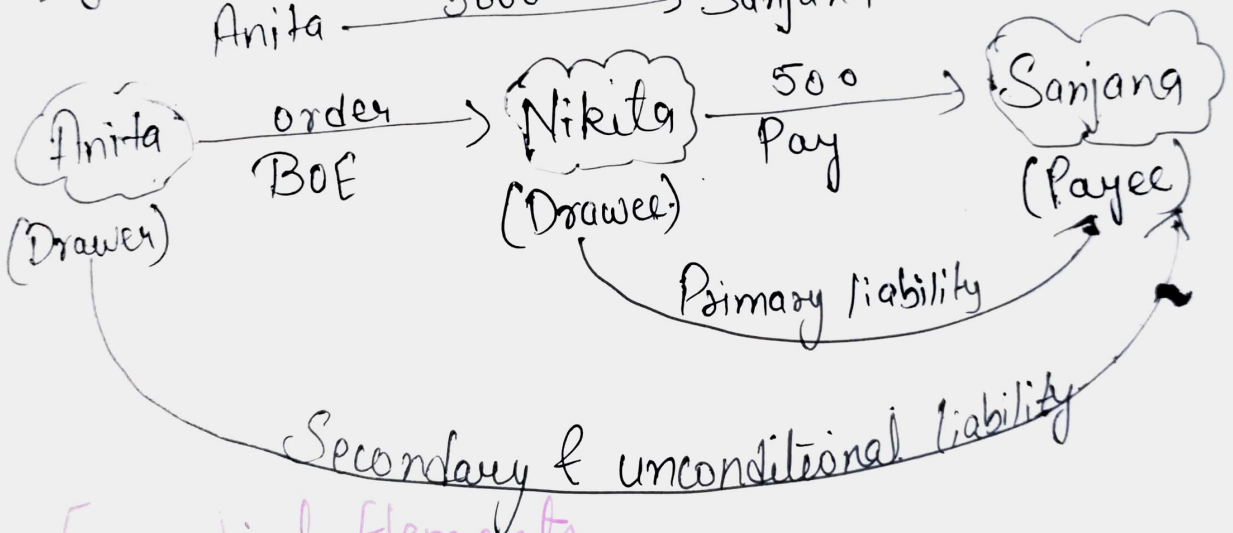


# Bills of Exchange (Section - 5)



Bills of Exchange :- It is an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of a certain person or to the bearer of the instrument.

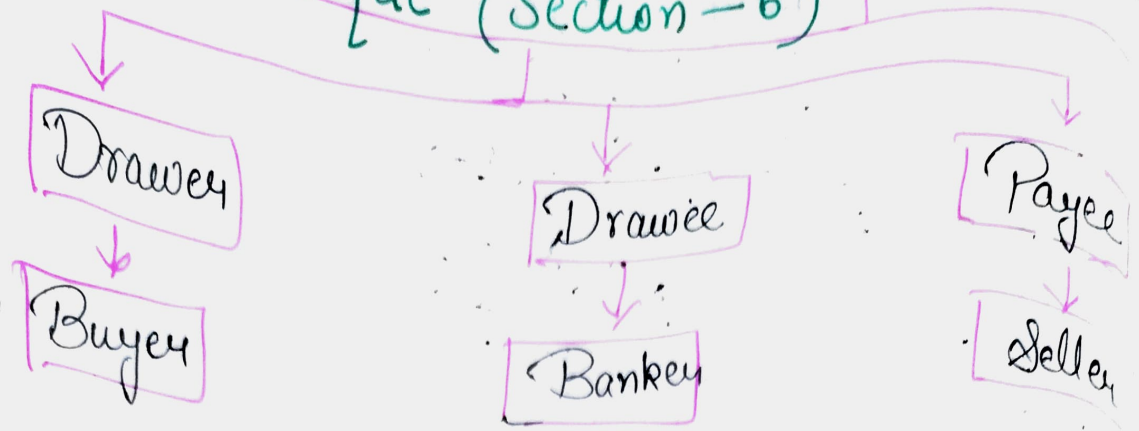
E.g. Anita  $\xrightarrow{5000}$  Nikita  
Anita  $\xrightarrow{5000}$  Sanjana



## Essential Elements

- ① Writing
- ② Express
- ③ Definite & unconditional
- ④ Signed
- ⑤ Certain
- ⑥ Money only
- ⑦ Stamped

# Cheque (Section-6)



## Cheque

Order

which gets cleared through a specific bank a/c

Bearer

Over the counter

Cheque :- A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

Truncated cheque :- It is a cheque which is truncated during a clearing cycle, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque.

# Classification of Negotiable Instrument

Payment to whom

Where is the instrument payable

Bearer Instrument

Order Instrument

Inland Instrument

Foreign Instrument

Name of the payee in blank

Name of the payee is mentioned

- (i) Drawn in India and
- (ii) Payable in India / Payable upon a person who is resident in India

Any instrument which is not an inland instrument is a foreign instrument.

Such NI's can be transferred by mere delivery

Such NI's can be transferred by Delivery + Endorsement

Eg: ① A  $\xrightarrow{PN}$  B  
(Pune) (Delhi)

Eg: ② A  $\xrightarrow{PN}$  C  
(Dubai) (London)

② X  $\xrightarrow{BOE}$  Y  
(Jaipur) (Resident in India)  
↓  
payable in Dubai



Inchoate Instrument :- An inchoate instrument is an instrument which is incomplete either partially or fully incomplete.

Eg. 

10/04/2024	<input type="checkbox"/>
I promise to pay Deepika a sum of Rs _____ after 1 month self	

Partially uncompleted

① Holder of the instrument has to complete this incomplete instrument

Eg. Anita  $\xrightarrow{1,00,000}$  Deepika

② Holder of the instrument cannot recover anything in excess of the amount intended to be paid.

Eg. Anita  $\xrightarrow{1,00,000}$  Deepika

But she fraudulently filed ₹1,50,000. She is entitled to get only ₹1,00,000/-

Holder in due course :- HDC is a person who receives the instrument.

① In good faith

② With due consideration

③ without knowledge of defect in title of transferor

was not a better title than the...

g Anita  $\xrightarrow{1,00,000}$  Deepika  $\xrightarrow{1,50,000}$  Alisha (HDC)  
She can recover  
(1,50,000)

Note :- For the concept of holder in due course to be applicable the instrument should be signed & delivered.

Ambiguous Instrument :- It is an instrument where the payee is not clear that whether he has received a P/N or BOE. This instrument is vague & not clear.  
→ Payee can treat it as PN/BOE at his own wish  
→ It arise only when there is faulty drafting.

g. I order myself to pay Rs 10,000  
to you after 20 days  
Self.

Here, the drawer & drawee are the same person. Thus, holder may treat it as PN/BOE as per his choice.

Once an option is exercised it cannot be changed.



# Dishonour of a cheque (Section - 138)

## Stage 1:

**Drawer** → <sup>gift x charity x</sup> Issue of cheque on discharge of a legally enforceable debt → **Holder**

## Stage 2:

**Holder** → Presentment for payment within 3 months or validity period whichever is earlier. → **Bank**

## Stage 3:

**Bank** → Cheque return → **Holder**  
Reason: (a) Insufficient funds  
(b) Stop payment

## Stage 4:

**Holder** → Notice of dishonour within next 30 days. → **Drawer**

## Stage 5:

**Holder** → Payment not made within the next 15 days → **Drawer**

## Stage 6:

**Holder** → Complain in writing within next 1 month. → **Court**  
↓  
(a) Fine 2 times of amount