

P.O.- Asutosh Rai
Addl. Sessions Judge-II, Katihar
Criminal Revision No. 115 of 2025

In the Court of Additional Sessions Judge-II, Katihar

Criminal Revision No. 115 of 2025

In the matters of :-

***1. Kishore Kumar Singh, aged about 60 years, S/o- late Anil Kumar Singh, R/O- Mohalla-Mirchaibari, Nayatola Katihar, P.S.-Sahayak, Distt-Katihar
.....Complainant-Revisionist.***

Versus

1. The State of Bihar

2. Mukesh Kumar Sah S/O late Jichchhu Sah C/O Suman Jaiswal, Lohiya Nagar, near Marry Imakulate School ward No.-1, Sahayak Katihar

-----Opposite Parties.

(This Revision petition has been preferred against the order dated 24-09-2025 passed by Sri Ajit Kumar Sharma, Id. J.M. 1st Class, Katihar in C.A. case No. 1772/2023 Kishore Kumar Singh V/s Mukesh Kumar Sah

For Revisionist:- Sri. Vikram Kumar, Id. Ddvocate

For O.P. No. 01:- Md. Ejaz Alam, Id. A.P.P.

For O.P. No.-02 :-Sri Rajeev Kumar Gupta

Present:-

Asutosh Rai

Addl. Sessions Judge-II, Katihar.

Date of Order, 02 June, 2026

ORDER

1. This criminal revision petition has been preferred on behalf of aforesaid complainant-revisionist against the order dated order dated 24-09-2025 passed by Sri Ajit Kumar Sharma, Id. J.M. 1st Class, Katihar in C.A. case No. 1772/2023 Kishore Kumar Singh V/s Mukesh Kumar Sah whereby and whereunder the Id. Court dismissed the petition filed on behalf of the complainant u/s 143(A) of the N.I. Act for payment of 20% of cheque amount to the complainant as interim compensation. So, being highly aggrieved and dissatisfied aforesaid complainant-revisionist preferred this instant revision petition against the aforesaid impugned dismissal order.

Brief facts of this case:-

2. From perusal of the complaint petition it is evident that brief case of the complainant is that accused namely Mukesh Kumar Sah operates the bussiness of buying and selling of four wheelers. Further case of the complainant-revisionist is that the accused promised to give Scorpio car to him on the basis of an agreement on 05/01/21 and the accused took an advance of Rs 100000/- one lakh from the complainant. The accused has kept one lakh rupees of the complainant and is not giving him the Scorpio car. While one day the

accused told to the complainant that the Scorpio car is not available to him right now sh he is unable to give the same to the complainant and further told to the complainant to take back his amount one lakh rupees. Further case of the complainant-revisionist is that when he started demanding his one lakh rupees back from the accused, then accused started making excuses, while one and a half years has already passed but accused is still not returning the money to the complainant. Then being helpless, the complainant got a legal notice sent to the accused through registered post dt. 28-06-23 for legal recourse and said notice was received by the accused but he did not reply the said notice but he came and met to the complainant at his house and he handed over a cheque bearing no. 000456 of one lakh rupees of ICICI Bank, Katihar branch in which the account no. 132601504442 has been written. Further case of the complainant that he presented the said cheque before the State Bank of India, Main Branch, Mirchaibari, Katihar to receive the money in his account No. 10984678551. But the said cheque given by the accused was dishonoured by writing 'Account Closed'. Which means that with the intention of cheating said cheque was deliberately given by the accused to the complainant. Further case of the complainant-revisionist that the bank also gave a certificate to the complainant to this effect on 02-08-23, bearing no. 002031/202001/20 and same has been attached with this complaint petition. So, it is clear from this that the accused by committing cheating accused wants to commit breach of trust. Complainant-revisionist has further stated that when said cheque got dishonoured then he again got the legal notice sent to the accused through registered post but accused neither gave any reply till now nor he returned the said Rs.100000/- one lakh only to the complainant. So being helpless, the complainant filed this case for justice.

3. On receipt of the complaint the learned Chief Judicial Magistrate, Katihar registrerd the case as C- 1772/2023 and the case record was transferred to other Court for needful action. After receiving the case record ld. Trial court examined the revisionist-complainant namely Kishore Kumar Singh as well his other one inquiry witness namely Ganeshwar Bharti and after hearing the ld. Counsel for the complainant, ld. Court made out prima facie case u/s 138 of N.I. Act against the accused/O.P. No-02 namely Mukesh Kumar Sah and accordingly ld. Court ordered to issue of summon against the Mukesh Sah for facing the trial.. Later on, Accused Mukesh Sah appeared and the accusation u/s 138 of the N.I. Act was explained to him by the ld trial court but he denied the veracity of the accusation and pleaded to be innocent and accordingly claimed for trial.

4. After that on. 16-12-2024 complainant-revisionist filed a petition u/s 143(A) of the N.I. Act for interim compensation but after hearing the both parties Sri Ajit Kumar Sharma, Id. J.M.1st class, Katihar dismissed the said petition by the order dt. 24-09-2025 by observing inter alia as “ A bare perusal of the provision of Section 143(A) is not mandatory for magistrate for order payment of interim compensation. The order for compensation is discretionary nature and there must be a reason to why interim compensation is given in this case.

Complainant of this case has not given any reason in his petition that why the interim compensation shall be awarded to him. The complainant do not become automatically entitle to 20% of the cheque amount of interim compensation in a case where accused does not plead guilty. Thus, grant of interim compensation is a discretionary power which has to be exercised by the court trying a complainant u/s 138 of N.I Act and such order has to be based on reason and logic. The court has to spell out the reasons interim compensation in favor of the complainant and it has also to justify in its orders with reasons. The complainant of this case has not given any reason that why the interim compensation shall be awarded to him. Moreover, the accused cooperating in the trial of the case he never misused the privileged of the bail.

The complainant in his petition only stated that the accusation was explained to the accused. Hence, the court can pass an order for interim compensation. He failed to give any reason before this court for passing an order of interim compensation. In this case there is no chance that accused will absconds and avoids appears to the court.

From the above discussion this court does not find any reason to pass an order of interim compensation in this case at this stage. Accordingly the petition filed by the complainant is hereby dismissed. ”.

So, being aggrieved and satisfied with impugned order dt. 24-09-2025 passed by Id. Trial court, revisionist-complainant filed instant revision petition praying therein that impugned order be set aside and the O.P. No-02 be directed to pay interim compensation/relief to the complainant-revisionist. This instant revision petition has been filed on following grounds

G R O U N D S :-

A. For that the Ld. J.M, Katihar has not applied judicial mind on the point of U/S-143 A2 N.I.Act in this case.

B. For that the Ld. Lower court J.M did not disbelieve the story of the complainant or characterize the same as grossly exaggerated and consequently no ground for reject the petition of interim relief in this said case.

C. For that All the ingradient of U/S- 143 A2 are available on record in said complaint case.

D. For that the ground of interim relief u/s- 143 A2 Act is also made out in the interim relief petition against the accused person..

Accordingly, it was prayed that impugned orders dt. 24-09-25 passed by ld. court be set aside and to pass the order of allowing interim relief.

5. While the notice was issued to the O.P. no-02 and in the response of the notice O.P. no.-02 appeared before this court through his ld. Counsel, but he did not file any reply of the instant petition, but at the time of final argument ld. Counsel for the O.P. No.-02 has submitted inter alia that it is true that O.P. No-02 took one lakh rupees from the complainant-revisionist under the agreement to provide second hand Scorpio car but due to financial distreess O.P. No-02 could not provide the said car to the complainant-revisionist and he returned Rs. 60000/- sixty thousand ruppess to the complainant-revisionist before the Anand Singh and Shankar Kumar and he took only ten days to pay the rest amount Rs. 40000/- fourty throusand to the complainant-revisionist. Further after ten day O.P. no-02 went at the house of complainant-revisionist to ay the rest Rs. 40000/- fourty thousand rupees to the complainant-revisionist and demanded cheque and stamp pepers which had been given to the complainant-revisionist on earlier occasion, but complainant-revisionist made some pretext in retrurning the said cheque and Stamp paper, so O.P. No-02 did not pay the rest amount to the complainant-revisionist. It has been further submitted that there is no illegality in the impugned order dated 24-09-2025, as such the learned Court-below has passed its impugned order after perusal of the the entire materials available on the record. Accordingly it has been prayed to dismiss instant revision petition.

6. While at the time of final hearing ld. A.P.P. appearing on the behalf of the State has argued that ld. Trail court has passed very reasoned order after considering the all facts of

this case and there is no illegality in the impugned order dated 24-09-2025. Accordingly it has been prayed to dismiss instant revision petition.

7. While at the time of hearing the learned counsel for the revisionist –complainant has argued that while passing the impugned order dated 24-09-2025 the Id. Trial court has passed its order without considering this facts that O.P. No-02 has clearly admitted that he took Rs. 100000/- one lakh rupees from complainant-revisionist under an written agreement to provide second hand Scorpio car. But due to some reason he could not provide second hand car to the complainant-revisionist. Thugh O.P. no-02 has made out his false case that he has already paid Rs. 60000/- sixty thousand rupees, but he has not made clear that why he handed over the Cheque of Rs. 100000/ one lakh rupees to the complainant-revisionist. While the concerned Bank account of ICICI Bank, standing in the name the O.P. No-02 had already been closed. So this facts go to show that O.P. No-02 intended to avoid the payment of said dues amount to the complainant-revisionist. Further O.P. no-01 has not placed any proof regarding his financial distress. Accordingly, Id. Counsel for the complainant-revisionist prayed to allow this criminal revision, and to set-aside the impugned order dated 24-09-2025, as passed by the Id. Court-below, and further the matter may kindly be remanded to the Id. court below for passing fresh order.

8. Heard the learned counsel for the revisionist-complainant and the learned A.P.P. for the state as well as Id. Counsel for the O.P. No-02 and perused the relevant documents as annexed with this criminal revision petition and T.C.R. Now the questtion before this court that as to whether the Id. trial court was correct in dismissing the complainant's application seeking interim compensation under Section 143(A) of the N.I. Act or not ?. While coming on the merit of this case court finds that Id. Trial court did not pay heed properly on the true sprit and purpose of the provision of section 143 (A) of the N.I. Act. No doubt that said provision was incorporated in the N.I. Act to provide urgent financial relief to the complainant in cheque dishonour cases, because the trial of such cases often take a long time. Further aim of the law is that a person who has received a cheque from O.P. but said cheque has been dishonoured by the bannk. should not be left without any remedy until the very end of the trial. While from perusal of the impugned order it is quite clear that Id. Trial court dismissed the petition only on two grounds, Firstly, that the complainant did not give any specific "reasons" as to why interim compensation should be awarded in his favour and second, that the accused was cooperating with the trial.. But

this court does not find any force in the said both grounds as taken by the Id. Trial court, because complainant is not under obligation to assign any reason for interim compensation and further the fact that the accused is co-operating in the trial of this case is not sufficient to reject the petition for interim compensation. While from record it is evident that Id. Trial court did not consider the facts that admittedly O.P. No-02 took Rs. 100000/- One lakh rupees from complainant-revisionist under written agreement for providing second hand Scorpio car to the complainant-revisionist but O.P. no-02 could not provide the said car to the complainant-revisionist. So, O.P. No-02 assured to the complainant-revisionist to return the said amount and under said obligation he handed over the cheque of Rs. 100000/- one lakh rupees to the complainant-revisionist. But from record it is evident that said cheque got dishonored. Though O.P. No-02 has submitted that he has already returned Rs. 60000/- sixty thousand rupees to the complainant-revisionist but from perusal of the case record it is evident that O.P. No-02 has not adduced any cogent evidence with regard to the said part payment. The most concerning fact, which the trial court failed to appreciate properly, is that the cheque was issued from an account that was already closed. This conduct of the accused raises serious questions about his intent to pay from the very beginning. So, no doubt that in such circumstances, the dismissal of the application for interim compensation has defeated the very purpose of the provision of section 143(A) of the N.I. Act. Further, it is well settled law that discretionary power should be exercised judicially not in arbitrary manner. But from perusal of the said impugned as well as from the discussion as made above it is quite clear that the Id. trial court did not exercise its discretion in judicious manner, so this court finds and holds that the impugned order dt. 24-09-25 is not legally sustainable in the eye of law.

Hence, in view of what has been discussed above, court finds that aforesaid impugned order dt. 24-09-25 is not sustainable in the eye of law. Hence this criminal revision is liable to be allowed, and the aforesaid impugned order dated 24-09-2025 as passed by the learned Trial court in the C.A. No-1772/2023 is liable to be set aside.

So, under the circumstances, this criminal revision application is hereby allowed with observations as made above and accordingly impugned order dated 24-09-2025 passed in C.A. No-1772/2023 by Sri Ajit Kumar Sharma J.M. Katihar is hereby set aside and the matter is remanded back to the concerned Id. Trial court and Sri Ajit Kumar Sharma, Id. J.M. Katihar or his Id. Successor court is hereby directed to pass fresh order on the petition u/s 143(A) of the N.I. Act filed before Id. Trial court on the behalf of the complainant-revisionist, in accordance with the law. The trial court is further directed to proceed with the main trial of the case in accordance with the law.

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However, it is made clear that the observations made in this order shall not have any adverse effect on the merits of the case and the same have been recorded only for the purpose of deciding the instant revision petition.

Let the lower court record be sent back along with copy of this order to the court below and this record be deposited in the record room in accordance with law.

(Dictated)

Asutosh Rai

Addl. Sessions Judge-II, Katihar.

02-06-2026

The order has been corrected, pronounced, signed and dictated by me in the open court.

(Asutosh Rai)

Addl. Sessions Judge-II, Katihar

02-06-2026