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Exh.

IN THE COURT OF 10th ADDL. SESSIONS JUDGE,
AT AHMEDABAD (RURAL)

CRIMINAL REVISION APPLICATION NO. 46 OF 2026

Revisionist/Applicant.

Raghubhai Shankarbhai Patel,
Age : 64 years, Occu: Business,
Residing at- 41, Narayan Dham,
Thaltej, Hebatpur Road,
Thaltej, Ahmedabad.

V E R S U S

Opponents :

1. **Naresh Dalpatbhai Malhotra,**
   Age : 51 years, Occu. : Doctor,
   Residing at- 4, Narayan Kutir,
   B/H - Jalsa Party Plot,
   Thaltej, Dist. Ahmedabad.
2. **State of Gujarat**

Application under Section 438 Of BNSS (397 of the Code of Criminal Procedure, 1973).

APPEARANCE:

Mr. Bipin P. Bhatt, Learned advocate for the applicant.
Mr. Nimit Y. Shukla, Learned Advocate for the opponent No. 1.
Mr. R. P. Thakar, Learned APP for the opponent No. 2.

-: J U D G M E N T :-

[1.0] The applicant herein has filed the present application under provisions of Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) against the order dated 10.03.2025 passed below Exh.13 in Criminal Case No. 14542 of 2023 by the Ld. 6th Addl. Chief Judicial Magistrate, Ahmedabad (Rural) (herein after referred as "Ld. Trial Court") whereby the Ld. Trial Court has allowed the application of the Opponent no.1/original complainant under section 143-A of Negotiable Instruments Act, 1881 for seeking the order of interim companasation against the accused.

[1.1] The applicant herein is the accused before the Ld. Trial Court, whereas, the opponent no.1 herein is the complainant before the Ld. Trial Court and the applicant is facing trial in respect of the offence under Section 138 of Negotiable Instrument Act and hence-forth, for the sake of brevity and convenience, parties to this revision are referred to in accordance with the respective standings before the Ld. Trial Court.

[2.0] The Short facts leading to the revision application are that :

[2.1] That the Criminal Case No.14542 of 2023 has been filed by complainant against the accused for dishonour of Cheque bearing No.004170 dated 05.08.2023 for an amount of Rs.50,00,000/- drawn on Kankaria Maninagar Nagrik Sahakari Bank Ltd., Navrangpura Branch, Ahmedabad under the provisions of Section 138 of The Negotiable Instruments Act, 1881 and in pursuance of service of notice accused appeared before the Ld. Trial Court. That the complainant has preferred an application vide Exh.13 on 07.08.2024 before the Ld. Trial Court under the provisions of Section 143-A of the Negotiable Instruments Act for seeking the order of Ld. Trial Court qua the directions to the accused to deposit 20% of the cheque amount as interim compensation. Reply/objections to the same was filed by the accused vide Exh.17 and also filed the additional reply vide Exh.29 and after hearing Ld. Advocate for the parties, application vide Exh.13 was allowed by the Ld. Trial Court on 10.03.2025 and the accused was directed to deposit the 20% of cheque amount within a period of 60 days from the date of the order. Feeling aggrieved by the impugned order, the accused/applicant has preferred a petition before the Hon'ble High Court of Gujarat. But, the said petition has been withdrawn by the applicant-accused with a condition to file the revision application before the Appellate Court and, therefore, the present revision application has been filed before this Court.

[3.0] Ld. Advocate Mr. B. P. Bhatt for the accused/Applicant has reiterated the contents of present application under order and submitted that the impugned order passed by the Ld. Trial Court is ex-facie illegal, arbitrary and against the settled principles of law. It has been further submitted that the Ld. Trial Court has not taken into consideration the defences raised by the applicant-accused and has passed the impugned order. It has been further submitted that summons issued by the Ld. Trial Court was received by the relative of the applicant-accused as the applicant-accused had gone out of town and since he was not aware about the summons issued by the Ld.

Trial Court, he could not appear before the Ld. Trial Court. It has been further submitted that thereafter, the Ld. Trial Court issued Bailable warrant against the applicant-accused and upon registration of FIR in another offence, the applicant-accused was also arrested in the present case. It has been further submitted that on 05.04.2024, the applicant-accused appeared before the Ld. Trial Court through his Advocate and on 28.06.2024, the applicant-accused was again produced before the Ld. Trial Court from Jail and his plea was recorded on the very same day. It has been further submitted that subsequently, despite adducing evidence, the respondent no.1-original complainant preferred to file an application at Exhibit:13 on 07.08.2024 seeking interim compensation to the tune of 20% of cheque amount. It has been further submitted that the applicant-accused is not delaying the trial of the complaint, however, the original complainant trying to extract money from him. It has been further submitted that earlier on 06.12.2024, application at Exhibit:13 was decided by the Ld. Trial Court and also directed the applicant-accused to pay interim compensation to the extent of 20% of cheque amount. It has been further submitted that against the said order passed by the Ld. Trial Court, the applicant-accused approached the Hon'ble High Court of Gujarat, whereby, the Hon'ble High Court of Gujarat was pleased to quashed and set aside the order passed by the Ld. Trial Court and directed the Ld. Trial Court to decide the said application afresh. It has been further submitted that in spite of the same, the Ld. Trial Court without assigning any cogent reasons has again allowed the application at Exhibit:13 vide impugned order dated 10.03.2025. It has been further submitted that the Ld. Trial Court ought not to have taken into consideration presumption drawn under Section 139 of N. I. Act. It has been further submitted that against the impugned order dated 10.03.2025 passed by the Ld. Trial Court, the applicant-accused has approached the Hon'ble High Court of Gujarat, however, on 25.11.2025, the petition filed before the Hon'ble High Court of Gujarat was withdrawn by the applicant-accused with a liberty to file revision application before this Court. Even otherwise, the impugned order passed by the Ld. Trial Court is perverse, capricious and bad in law. With these submissions, he has prayed that the present revision may be allowed and the impugned order passed by the Ld. Trial Court may be quashed and set aside. The Ld. Advocate for the applicant-accused has relied upon following judgments in support of his case:

1. Rakesh Ranjan Shrivastava Vs. The State of Jharkhand & Anr. reported in [2024] 3 S.C.R. 438.
2. M/s. Bajaj Constructions Vs. The State of Maharashtra and others reported in 2024 ALL MR (Cri) 2216.
3. Padmanabha T G Vs. M/s. Radical Works Pvt. Ltd. reported in 2022 ACD 1044.
4. Deccan Charters Pvt. Ltd. Vs. State of Gujarat reported in 2023 ACD 490.
5. Shri Gurudatta Sugars Marketing Pvt. Ltd. Vs. Prithviraj Sayajirao Deshmukh & Ors. reported in [2024] 7 S.C.R. 1211.
6. Lyka Labs Limited and Anr. Vs. The State of Maharashtra and Anr. reported in 2023 (1) Crimes 523.

[4.0] *Per contra,* Ld. Advocate for the opponent No. 1 (original complainant) has resisted the revision application and filed written objection to the present application vide Exh.5. It has been submitted that the impugned order passed by the Ld. Trial Court is just, legal and proper and the Ld. Trial Court has rightly granted 20% of interim compensation to the opponent no.1. It has been further submitted that the applicant-accused has a history of committing crimes and to the knowledge of the applicant, 6 offences under different sections of IPC are registered against the applicant-accused. It has been further submitted that even four criminal cases under N.I.Act have also been registered against the applicant-accused. It has been further submitted that looking to the act and conduct of the applicant, the Ld. Trial Court as well as the Ld. Sessions Court had not enlarged the applicant-accused on bail, however, the Hon'ble High Court of Gujarat was pleased to release him on bail after imposing stringent conditions. Ld. Advocate for the opponent no.1-original complainant has relied upon the decision of Hon’ble High Court of Bombay in the case of Guljama Shah Jahir Shah Vs. Shri Sadguru Kaka Stone Crusher in Criminal Writ Petition No.83 of 2023, in which, the Hon'ble High Court has discussed the factors which are required to be taken into consideration while granting interim compensation i.e. *(a) whether the requirements of Section 138 of the N. I. Act were fulfilled, (b) whether the pleadings disclose the drawing of the presumption, (c) whether the proceedings were within limitation and, (d) whether prima facie a legal debt or liability was disclosed from the complaint or the notice of demand preceding* *it*. Ld. Advocate for the opponent no.1-original complainant has also relied upon the decision in the case of Rakesh Ranjan Shrivastava Vs. State of Jharkhand reported in (2024) 4 SCC 419 and submitted that in the above-mentioned decision, it has been categorically stated that to prima facie evaluate the merits of the case and not conduct trial before granting interim compensation and such prima facie reasons have been specifically recorded while also considering the plea of defence by the opponent herein. With these submissions, he has prayed that the present revision application may be rejected.

[5.0] Ld. APP Mr. R. P. Thakar for the opponent No. 2 - State has resisted the revision and contended that the impugned orders of the Ld. Trial Court is correct, just and proper and as per the provisions of law and does not require to be disturbed.

[6.0] I have heard Ld advocates for both the parties and have perused the entire judicial record including revision application, documents and judgments relied upon by both the parties. After perusal of records following points emerge before this court for the determination of present Criminal Revision Application.

(1) Whether the impugned order dated 10.03.2025 passed by the Ld. Trial Court below application at Exh.13 in Criminal Case No.14542 of 2023 is illegal, perverse, arbitrary, capricious, erroneous and against the settled principles of law ?

(2) Whether the interference in the impugned order is required by this Court?

(3) What order ?

[6.1] Reply of the above points for the reasons recorded herein are as under

1. In the Negative.
2. In the Negative.
3. As per final order.

<u>: : R E A S O N S : :</u>

[7.0] **<u>POINT NOS. 1 & 2</u>**

As the point No.1 & 2 are interconnected and interwoven hence, to avoid repetition, reasons for both are taken together herein.

[7.1] Applicant has approached this court under the provisions of Section 438 of BNSS to invoke the revisional powers of this court. This is no more *res integra* that the revisional jurisdiction of the court could be invoked and exercised sparingly in exceptional cases only, when there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a blatant miscarriage of justice. Further, while exercising revisional jurisdiction, courts would be justified in refusing to re-appreciate the evidence for the purpose of determining whether the finding of fact reached by the Ld trail court is correct or not.

[8.0] Before adverting to the appreciation of submissions in view of facts of the case it would be appropriate to reproduce herein the relevant provisions provided under NI Act regarding interim compensation. Section 143-A of the NI Act reads as under:

> ***"143A - Power to direct interim compensation-***
> *(1) Notwithstanding anything contained in* the Code *of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under* Section 138 *may order* ***the drawer of the cheque*** *to pay interim compensation to the complainant-*
> *(a) in a summary trial or summon case,* ***where the drawer pleads not guilty*** *to the accusation made in the complaint; and*
> *(b) in any other case, upon framing charges.*
> *(2) The interim compensation under sub- section (1)* ***shall not exceed twenty per cent of the amount of the cheque.***
> *(3) The interim compensation* ***shall be pad within sixty days*** *from the date of the order under sub-section (1), or within such further period not exceeding* ***thirty days*** *as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.*
> *(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial years, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.*
> *(5) The interim compensation payable under this section may be recovered as if it were a fine under* section 421 *of the Code of Criminal Procedure, 1973 (2 of 1974).*
> *(6) The amount of fine imposed under* section 138 *or the amount of compensation awarded under* section 357 *of the Code of Criminal Procedure, 1973 (2 of 1974)."*

[9.0] Upon perusal of Section 143-A, it can be summed up that the Ld. Trial Court may order the drawer of the cheque to pay upto 20% of the cheque amount as interim compensation to complainant **when the drawer of the cheque pleads not guilty** and the same shall be paid within 60 days of the order extendable for further 30 days on being shown the sufficient cause by the drawer of the cheque and in case the drawer of the cheque is acquitted the Ld. Trial Court shall direct the complainant to repay the amount of interim compensation with interest at the bank rate to the drawer of the cheque within 60 days of the date of order of acquittal and the same is also extendable upto further 30 days on sufficient cause being shown by the complainant.

[10.0] The Ld. Advocate for the applicant-accused has submitted that the provisions of Section 143A of the N.I.Act is discretionary and not mandatory. The word ‘may’ is used in the section itself suggest that the provision is discretionary. Further, the Ld. Advocate has also argued that while passing the order to pay interim compensation, the Ld. Trial Court has to assign a reason, that why the Court is passing or allowing the application. Further, it has been also submitted that the Ld. Trial Court has to apply its mind to the facts of the case and also see the defence of the accused before passing the order. It has been further submitted that the present accused has specifically pleaded that the complainant has forcefully taken the alleged cheques from the accused on the gun-point. Further, it has also been contended by the Ld. Advocate that the entire transaction is time barred. The Ld. Advocate has invited the attention of this Court towards paragraph 13.7 of the impugned order and submitted that the transaction took place between the accused and the complainant in 2018 and 2019 and the present complaint has been filed in the year 2023. So, the entire transaction is time barred, which fact has not been taken into consideration by the Ld. Trial Court. It has also been submitted by the Ld. Advocate for the applicant that the Court has to consider the financial capacity of the accused also and several other factors before passing the order of interim compensation. The Ld. Advocate for the applicant-accused has further submitted that the Ld. Trial Court has not assigned any reason that whey 20% interim compensation has been awarded. Further, the Ld. Trial Court ha not taken into consideration the defense of the accused. It has been submitted that the accused has given an application before the police on 19.07.2023 and the present cheques are presented before the bank after the said date. It has been further submitted that the transaction is of 2018-2019 and, therefore, it can also be presumed that the accused has paid the interest on the said amount. It has been further submitted that the Court cannot grant 20% compensation in each and every case. It is the discretion of the Court to grant compensation ranging from 1% to 20%. But, in the present case, the Ld. Trial Court has not given any reason to grant 20% of compensation. In support of the above submissions, the Ld. Advocate for the applicant has relied upon the judgment of Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava Vs. The State of Jharkhand & Anr., [2024] 3 S.C.R.- 438,** in which, it has been held that:

> *MANDATORY OR DIRECTORY*
> *9. There is no doubt that the word "may" ordinarily does not mean "must". Ordinarily, "may" will not be construed as "shall". But this is not an inflexible rule. The use of the word "may" in certain legislations can be construed as "shall", and the word "shall" can be construed as "may". It all depends on the nature of the power conferred by the relevant provision of the statute and the effect of the exercise of the power. The legislative intent also plays a role in the interpretation of such provisions. Even the context in which the word "may" has been used is also relevant.*
>
> *FACTORS TO BE CONSIDERED WHILE EXERCISING DISCRETION*

> *16. When the court deals with an application under Section 143A of the N.I. Act, the Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application under sub-section (1) of Section 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.*

[10.1] Further, Ld. Advocate for the applicant has relied upon the judgment of Hon'ble High Court of Gujarat in the case of **Deccan Charters Pvt. Ltd. Vs. State Of Gujarat, 2023 (2) GLR- 1587,** in which, it has been held that:

> *18. On perusal of the findings recorded by the trial Court, this Court is of considered view that, the discretion having not been properly exercised by the trial Court while awarding 20% amount of compensation. The learned trial Court has not assigned any reasons as to why the complainant has been awarded interim compensation @ 20% of the cheque amount and not less than 20%. It is the discretion of the Court to award interim compensation from 1% to 20%, but subject to recording of proper reasons. On the facts of the present case, the learned trial Court has rightly did not discussed with the issue of defense raised by the accused herein as the question of disputed facts require to be tried after full fledge of the trial. However, the trial Court while determining the percentage of interim compensation, he or she should have assigned proper reasons stating that why the interim compensation amount @*

> *20% is required to be paid by the accused. It is mandatory on the part of the trial Court that whenever the Court exercise its jurisdiction under Section 143A of the Act, it shall record reasons as to why it directs the accused person to pay the interim compensation to the complainant. There is no straight jacket formula for assigning reasons, but it may vary case to case and depends upon facts of each case.*

[10.2] It has been further contended by the Ld. Advocate for the applicant-accused that while deciding the application under Section 143A of N.I.Act, the presumption under Section 139 of the N.I.Act by itself a no ground to direct the payment of interim compensation. In support of the above submission, the Ld. Advocate has relied upon the judgment of Hon'ble High Court of Bombay in the case of **M/s. Bajaj Constructions Vs. The Stae of Maharashtra & Ors., AIR 2024 BomR (Cri)- 327**, in which, it has been held that :

> *Presumption under Section 139 of the N I Act, 1981, by itself, is no ground to direct the payment of interim compensation.*

[10.3] It has also been argued by the Ld. Advocate for the applicant-accused that while granting or deciding the application under Section 143A of the N.I. Act, the Court has also to look the conduct of the accused. It has to be looked by the Trial Court that whether the accused is trying to delay the matter by applying dilatory tactics. The Ld. Advocate has pointed out that the present complaint has been filed on 21.09.2023 by the complainant before the Trial Court. Further, the Ld. Trial Court has issued the summons to the accused to remain present before the Court dated 14.12.2023. The said summons has been served to the family members and the accused has no knowledge of the same was remain absent on 14.02.2023 before the Ld. Trial Court. Therefore, the complainant has given the application for issuance of warrant against the accused. The Trial Court had issued bailable-warrant against the accused. It has been further submitted that meanwhile, an FIR dated 19.03.2024 and in that case, Crime Branch has executed the bailable warrant against the accused and, thereafter, sent the accused in Jail for the offence registered under the FIR. It has been submitted that since then the accused was in Jail and he has appeared on 05.04.2024, through his Ld. Advocate. It has been further submitted that on 28.06.2024, the accused has been produced before the Ld. Trial Court and on the same day, the plea of the accused has been recorded and the case was put for evidence of the complainant. It has been further submitted that instead of giving his evidence and proceed to record the evidence, the complainant gave this application vide Exhibit:13, which shows that the complainant wants to extract money from the accused by any means. It has been further submitted that the accused has not prolonged the matter and, therefore, before passing any order, the Ld. Trial Court has to take into consideration the conduct of the accused also. In support of the above submission, the Ld. Advocate for the accused has relied upon the judgment of Hon’ble High Court of Karnataka in the case of **Padmanabha T G Vs. M/s. Radical Works Pvt.Ltd., 2022(4) ICC- 924,** in which, it has been held that:

> *"13. Application of mind and passing of a reasoned order of grant of compensation becomes necessary in the light of penal consequences that ensue an accused who failed to comply with the order granting 20% compensation as the complainant is given several remedies of recovery which result in the accused being taken into custody. Therefore, such orders which result in such penal consequences should be rendered giving cogent reasons which would demonstrate application of mind and such orders should be passed only after hearing the accused in*

> *the matter. In cases where the learned Magistrate is to exercise discretion, such discretion should become two fold.*
>
> *First fold: Where an application is so made, the learned Magistrate has to apply his mind whether such an application is to be considered at all, as every application that is made need not result in grant of 20% interim compensation. Several factors need be gone into for considering such applications bearing in mind the reason and backdrop of the amendment. As quoted herein-above the bedrock of the amendment was to stall unscrupulous drawers of cheques drawing proceedings with frivolous applications, absenting themselves, seeking continuous adjournments causing delay and grave prejudice to the case of the complainants. In these factors, the learned Magistrate after analyzing the conduct of the accused should grant compensation which would vary from 1% to 20% after recording reasons.*
>
> *In a given case if the accused is cooperating with the trial without seeking any unnecessary adjournments, not absenting himself or his counsel on any date and cooperating with the conclusion of the trial in such cases, the learned Magistrate will have to apply his mind, exercise his discretion as to whether such applications should be entertained at all. Therefore, it forms two classes of litigants. One who would cooperate with the proceedings and the other who would not. In cases where there is complete co-operation from the hands of the accused in the trial, the Court may consider whether interim compensation has to be granted at all and in cases where there is no cooperation on the part of the accused, the Court may proceed to consider the application.*
>
> *Second fold: The second fold of discretion in any given case , the compensation may vary from 1% to 20%. It is nowhere depicted in the statute that the amount of interim compensation should be of a particular figure. It can vary from 1% to 20%. It is this variance that gives the learned Magistrate power to exercise discretion to grant such compensation. The mandate of the statute is that it should not exceed 20%. In the cases where learned Magistrate proceeds to grant compensation, has to bear in mind the amount involved in the instrument, as certain transactions would run to several cores and the accused may have formidable defence against the complainant. In such cases, the learned Magistrate should exercise discretion in a cautious manner.*

[10.4] It has been further submitted by the Ld. Advocate for the applicant-accused that the disputed transaction of the complaint has taken place between the partnership firm and the complainant and, therefore, the applicant-accused just being a signatory of the cheque is not made liable for the offence as per the provisions of Section 141 of the N.I.Act. It has been further submitted that the disputed cheque has been given on behalf of the partnership firm and, therefore, the present applicant-accused is not liable to pay 20% amount. In support of the above-submission, the Ld. Advocate has relied upon the judgment in the case of ***Shri Gurudatta Sugars Marketing Pvt. Ltd. Vs. Prithviraj Sayajirao Deshmukh & Ors. reported in [2024] 7 S.C.R.- 1211***, in which, the question framed before the Hon'ble Apex Court was :

> ***"Whether the signatory of the cheque, authorized by the "Company", is the "drawer" and whether such signatory could be directed to pay interim compensation in terms of section 143A of the Negotiable Instruments Act, 1881 leaving aside the company?"***

[10.4.1] The Hon'ble Supreme Court in its order after interpreting Section 7 of the N. I. Act, interpreted the definition of "drawer" and held that :

> *"drawer" strictly as the issuer of the cheque, excluding authorized signatories, is well-founded. This interpretation aligns with the legislative intent, established legal precedents, and principles of statutory interpretation. The primary liability for an offence under Section 138 lies with the company, and the company's management is vicariously liable only under specific conditions provided in Section 141.*

[10.5] The Ld. Advocate for the applicant-accused has further relied upon the judgment in the case of **Lyka Labs Limited and Anr. Vs. The Stae of Maharashtra & Ors., 2023(2) ICC – 349,** in which, it has been held that:

> *48. Reading paragraphs 21 and 22 of the judgment in <u>N. Harihara</u> (supra), it is clear that the subsequent bench of the*

> *Apex Court, after noticing and relying on Aneeta Hada (supra), has observed that every person signing a cheque on behalf of a company on whose account a cheque is drawn does not become the drawer of the cheque and such signatory is only a person duly authorized to sign the cheque on behalf of the company/drawer of the cheque, the Apex Court has made these observations after noticing and relying on Aneeta Hada (supra) would be binding on this Court. Therefore respondents' submission of including "authorized signatory" within the expression "drawer" under sections 143A and 148 of the Negotiable Instruments Act, 1881 cannot be accepted.*

[10.5.1] Thus, the Ld. Advocate for the applicant-accused has submitted that looking to the facts and circumstances of the case and the case laws cited by the applicant and the principles enunciated in it, the application filed by the complainant for interim compensation deserves to be dismissed and the impugned order passed by the Ld. Trial Court requires to be set aside.

[11.0] In the present case on hand, if we consider the averments made by the complainant, in his complaint, it has been averred that the accused has given an assurance to the complainant to invest Rs.6,00,00,000/- in his scheme and then the complainant will be provided a profit of 20% per annum. It has been further stated that the complainant invested Rs.6,25,00,000/- between 20.10.2018 to 09.03.2019. It has been further noted that against the above investment, the accused person had executed an agreement to sell for different properties i.e. flats/shops bearing No.D.-105, D-104 and D-203 of the scheme of the accused. Further, the accused has also not disputed the execution of the above agreement to sell. It has been further required to be noted here that the accused has sold the above three properties to someone else and, thereby, defrauded the complainant. It is also required to be noted here that accused has also not disputed the fact that he has sold/allotted the above three properties to third parties. Thus, apparently there are transactions taken place between the complainant and the accused. Further, the Ld. Trial Court in his order dated 10.03.2025 has categorically observed that the complainant has invested a huge amount in the scheme of the accused. Further, looking to the contention of the applicant-accused also the accused has borrowed the amount at an interest of 3% per month from the complainant is also to be taken into consideration. Further, the accused himself has admitted that he has executed an agreement for three properties in favour of the complainant. Thereafter, as the accused has sold the above three properties to the third parties the complainant has demanded his borrowed sum from the accused and in that circumstances, the accused has given the above cheque. Further, it is also to be note by the Ld. Trial Court that the accused has executed the said agreement without informing his other partners, thus, the conduct of the accused is also to be taken note by the Ld. Trial Court. Further, in the agreement executed between the complainant and the accused, the amount which has been paid by the complainant has also been mentioned. Thus, considering all these aspects, the Ld. Trial Court has deemed it fit to allow the application and granted the interim compensation up to 20% of the cheque amount in favour of the complainant. The Ld. Advocate for the accused has submitted that as the accused has signed the disputed cheque not as partner of the partnership firm, he is not liable. Here in the present case, the disputed cheque is signed by the applicant-accused in his individual capacity. Further, the cheque is given to discharge his liability. Thus, it cannot be said that the applicant-accused has signed on behalf of the partnership firm and he is not the drawer of the cheque. Thus, the judgments relied upon by the applicant-accused are not useful to him in the facts and circumstances of the present case.

[12.0] Further, it would not be out of place to mention herein that Section 143-A of NI Act was inserted in the Act vide amendment in the year-2018 for providing some solace to the aggrieved complainant who might be running pillar to post for his/her legally recoverable debt and there is presumption in favour of the complainant when a cheque is issued by the accused in the name of complainant. Considering the impugned order it appears that after giving an opportunity of hearing to the parties Ld. Trial Court has discussed the purport and scope of the provision of Sec. 143-A of NI Act, and considering the prima facie case against the accused, pleased to pass impugned order.

[13.0] Therefore it is clear that Ld. Trial Court has given sufficient reasons for exercising the jurisdiction given U/s 143-A of NI Act in the impugned order and the arguments of the Ld advocate for accused that there is no prima facie case in favour of the complainant is not tenable at this stage. Moreover order for interim compensation to complainant upto 20% of cheque amount does not in any way curtail the rights of accused persons to defend the matter rather it provides a balanced situation as the applicants would be entitled for the repayment of amount so paid with interest in case accused were not found guilty of committing offences as alleged by complainant.

[14.0] Considering the facts & circumstances of the present matter, the judgments of the Hon'ble Apex Court and Hon'ble High Courts in this regard and discussions held herein above, this Court is of the view that the order of Ld. Trial court is correct, legal, and within the purview of law and hence needs no interference by this court. Hence, point No.1 & 2 are decided in negative for above stated reasons, and while deciding point no.3, I pass the following final order in the interest of justice:-

-:F I N A L O R D E R :-

- This Criminal Revision Application is hereby **dismissed.**
- A copy of this order be sent to the learned trial Court along with record and proceedings, if any.

It is being clarified herein that any observations touching the merits of the case are purely for deciding the present application and shall have no bearing on the hearing of the matter by the Ld. Trial Court.

Present revision application stand disposed of accordingly.

File of Revision application be consigned to record room after compliance of due procedure.

Pronounced today in open Court on this 02nd day of April, 2026.

Date : 02/04/2026.
Place: Ahmedabad.

[Hardik R Shah]
10th Additional Sessions Judge,
Ahmedabad (Rural) at Navrangpura.
(Judge Code No.GJ00851)