

ORDER ON APPLICATION FILED U/SEC.
143(A) OF N.I.Act

The present application is filed by the complainant seeking a direction to the accused to deposit 20% of the cheque amount as interim compensation to the complainant as per the provisions of the amended negotiable instrument Act of 2018.

2. To this application, the counsel for the accused has filed objection contending that the same is not maintainable on facts and on law. It is contended that the the complainant has not stated the reason for filing the present application. The present application is filed only to cause hardship to the Accused. Accordingly, it is prayed that the application be dismissed.

3. Heard Arguments.

4. The point that arises for my consideration is:-

1. Whether the complainant is made out sufficient grounds to allow the present application?

5. My answer to the above point is **partly in the Affirmative** for the following :-

REASONS

6. A perusal of the complaint shows that the complainant has filed the present complaint showing that the accused is due to the complainant in a sum of Rs.5,00,000/- and she has committed an offence U/sec. 138 of N.I. Act by issuing a cheque which when presented for encashment returned with shara 'funds insufficient'. According to the complainant, the transaction relates to the year 2019 while the cheque relates to the year 2020. It is seen that nearly 2 years have elapsed and the complainant is yet to receive his amount of Rs.5,00,000/-. If the complainant had received the said money in the year 2020, he would have invested the said money and earned some interest on the same. Instead, he is still awaiting the said amount and is litigating for the same.

7. A perusal of Sec. 143(A) of N.I. Act shows that the same deals with the power of the court to direct interim compensation. Sec. 143(A)(1)(a) states that Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the Court trying an offence under Sec. 138 may order the drawer of the cheque to pay interim compensation to the complainant-

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint. It is clearly shows that the complainant is

entitled to seek for interim compensation in a summary trial where the accused pleads not guilty to the accusation made in the complaint. It does not state that the application should be filed immediately after recording of plea. Further it is seen that when the notice was sent to the Accused, the same was served on the Accused on 17.6.2020. If really the Accused had not taken money from the complainant she could have replied to the notice at the first instance. At this stage, no grounds are made out to reject the application. Hence, the complainant is entitled to seek for interim compensation from the accused. Accordingly, I answer the above point **partly in the affirmative** and proceed to pass the following:

ORDER

The application filed by the complainant U/s 143(A) of N.I.Act is hereby partly allowed.

The accused is hereby directed to deposit 5% of the cheque amount in the court within 60 days from the date of this order.

Call on: 24.2.2023.

**(Anitha, G.)
Senior Civil Judge & JMFC.,
Arasikere.**