



IN THE COURT OF THE CIVIL JUDGE AND JMFC
AT: SEDAM

(Dated this the 10th day of September, 2024)

Present: Smt. Lalita Kudarimati.
B.Com., L.L.B
Civil Judge and JMFC, Sedam

Criminal Case No.1181/2023

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| Complainant | Chandrashekhar S/O Bichappa Walikar. Age: 36 Years, Occ: Agriculture R/o: Jawahar Nagar, Post: Adaki Tq: Sedam, Dist: Kalaburgi. |
| (By Shri. H.V.S Adv.) | |
| Vs. | |
| Accused | Swati D/O Laxminarayan Komti Age: 38 Years, Occ: Business, R/o: Konkalkal, Tq: Gurumithkal, Dist :Yadgir |
| (By Shri. A.M. Adv.) | |

Sd/-
(Lalita Kudarimati)
C.J. & JMFC, Sedam.



ORDER ON APPLICATION U/SEC. 143-A OF N.I.ACT

The complainant herein has filed an application U/s.143-A of N.I. Act., seeking interim compensation of 20% of cheque amount, from the accused pending disposal of the case.

2. Per contra, the accused has filed objections to and submits that there is no prima facie case and no merits in the case of the complainant. There is no prima facie case and no merits in the case. Hence prays for rejection of application.

3. On the basis of the application filed by the complainant, the points that arise for my consideration are:

1) Whether the complainant has made out sufficient grounds to allow the application filed U/s. 143-A of N.I.Act?

2) Whether the Complainant is entailed for the compensation



**to the extent of 20% of the
cheque amount from the
accused?**

3) What Order?

4. Heard the counsel for the complainant and accused. Perused the application.

5. My findings on the above points are as follows:

Point No.1: In the Affirmative.

Point No.1: In the Affirmative.

**Point No.2: As per final order
for the following:**

REASONS

6. Point No.1: It is the specific case of the complainant that the accused purchase the cotton from the complainant worth Rs. 8,00,000/- and accordingly accused had paid the amount through Ex P1. But on presentation the cheque, it was returned as funds insufficient. Despite giving legal notice, accused had not repaid the said



amount. Therefore complainant constrained to file the complaint punishable U/S 138 of NI Act.

7. On perusal of the complainant averments and the documents produced by the complainant i.e., Ex.P-1 to 5. There is a cheque which was returned as funds insufficient. Accordingly, complainant filed a private complaint by complying the statutory requirements as per sec 138 of NI Act.

8. Per contra, accused has denied the allegations made against him and claims to be tried. Complainant has lead his evidence. But accused had not filed application for recall of PW1 for cross examination. But sought time to answer his plea. It appears to the court that, accused is intentionally causing delay to the further proceedings. Neither contesting the case, nor continuing with the proceedings.

9. In N.I. Act case, to grant the relief of interim compensation, the complainant has to show the prima facie case. It is important to lay hands on recent decision of **Hon'ble SC in Rakesh Ranjan Shrivastava Vs. The**



State of Jharkhand and another 2024 o SC 229, the Hon'ble court held in para 16 that,

“16 When the court deals with an application under Sec. 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 for the defence pleaded by the accused in the reply to the application under sub section (1) of Section 143A. The presumption under Sec. 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 given case, such as, the pendency of a civil suit, etc., While deciding the prayer made under Sec. 143A, the Court must record brief reasons



indicating consideration of all the relevant factors.

10. In light of the aforesaid dictum, it is vital to analyze the documents produced by the complainant as well as the defenses set up by the accused. As per the complaint averments, complaint is well within time after complying the statutory requirements. The accused did not choose to cross examine PW1 but has taken time more than sufficient time to appear before the court after he got enlarged on bail. He appeared only after issuing direction from the court to appear before the court. When the accused has denied the allegations against him and pleaded not guilty. Once the statutory requirements are fulfilled, the presumption will arise in favor of the complainant as per sec 139 of the NI Act. Then onus will be on the accused to rebut the presumption. There is a prima facie case of the complainant. But accused failed to take the defences.

11. From all these discussions it makes clear that this is a case of the complainant which is fit for a trial and the application for interim compensation has to be decided.



For, these aforesaid reasons **Point No.1 is answered in Affirmative.**

12. Point No.2: The complainant has made out a prima facie case. But the accused did not file the objections. As the accused has had filed formal objections. He had failed to express his financial distress through his objections. In the cause title, it appears that the accused is a business man. The complainant has invested the huge money and it appears that complainant would be put to financial difficulties if the application is rejected. Examining the order sheet reveals that the accused is purposefully evading the court's ongoing procedures. On considering all this, this court proceeds to answer **Point No 2** in **AFFIRMATIVE**.

13. Point No.3: In view of foregoing discussion and reasons assigned above, this court proceeds to pass the following:

ORDER

The application filed by the complainant U/s.
143-A of N.I. Act, is hereby allowed.



The accused is hereby directed to pay 20% of the amount covered under the cheques Ex.P1 ie., Rs.8,00,000/- to the complainant as interim compensation within a period of 60 days from this day.

For 313 and for compliance by

(Typed and corrected by me, taken print out and then pronounced in the open court on this the 10th **September, 2024**).

Sd/-
(Lalita Kudarimati)
C.J. & JMFC, Sedam.
