

ORDER

The complainant has filed this application U/s. 143 A of Negotiable Instruments (Amendment) Act, 2018 seeking interim compensation of the cheque amount.

2. In the application, it is submitted that the complainant has filed this complaint against the accused for the offence punishable U/s. 138 of Negotiable Instruments Act and has prima facie shown that the accused has committed the alleged offence. It is submitted that as per Section 143 A of Negotiable Instruments Act, the complainant is entitled to 20% of cheque amount as interim compensation and the complainant is need of the said amount for his use. Hence, prayed to allow the application

3. Per contra, the counsel for the accused has filed his objections contending that there was no monetary transaction between the complainant and the accused. It is further contended that the cheque was issued by the accused as a security in respect of the alleged incomplete mud work wherein the complainant by using his influence in the police station in respect of the case filed by the accused. Further, at that time, the complainant has also received the cheques of the local

residents who are accused in C.C.No.212/2022 and C.C. No.213/2022. As there is no transaction between them, if interim compensation is awarded then the accused would be put to irreparable loss. Hence, prayed to dismiss the application filed by the complainant.

4. Heard, the counsel for the complainant as well as the accused. I have carefully perused the materials available on record.

5. The points that arises for my consideration is as follows;

1. Whether the complainant has made out ground for allowing interim compensation as prayed ?

6. My findings on the above point is in the ***Affirmative*** for the following ;

:: REASONS ::

7. **Point No.1** :- It is the case of the complainant that he has filed a complaint against the accused under the provisions of 138 of N.I.Act and by virtue of the amendment he is entitled to 20% of the Cheque amount as interim compensation.

At this stage, it would be appropriate to refer Sec.143 A of Negotiable Instruments (Amendment) Act herein which reads as under:

“143A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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 a summons case, where he pleads not guilty to the accusation made in the complaint; and Short title and commencement. Insertion of new section 143A. 2 of 1974. 26 of 1881. Power to direct interim compensation.

(b) in any other case, upon framing of charge.

(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 paid 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 year, 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.

(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, shall be reduced by the amount paid or recovered as interim compensation under this section.”

8. The sum and substance of the Sec. 143 A is that the court may order the drawer of the cheque to pay interim compensation to the complainant, if the accused pleads not guilty to the accusation made in the complaint and Sec. 143 A (2) states that the interim compensation that may be awarded by the court not exceeding 20% of the amount of the cheque.

9. The perusal of order sheet disclose that the substance of the accusation was read over and explained to the accused on 21.07.2022 and the

accused has pleaded not guilty to the said application, pursuant to which, this instant application came to be filed.

10. It is pertinent to note that the accused has neither disputed that the cheque that it does not belong to him nor the signature on it. The contentions of the defence that the cheque was issued by the accused as a security in respect of the alleged incomplete mud work wherein the complainant by using his influence in the police station in respect of the case filed by the accused. Also that, at that time, the complainant has also received the cheques of the local residents who are accused in C.C.No.212/2022 and C.C. No.213/2022 can be considered only after taking into consideration of evidence of both the parties and at the time Judgment but it cannot be decided at this stage. It may be the defence of the accused but the same is premature to consider for the disposal of this application. No where in the objection the accused has denied the issuance cheque. Such being the case on hand, I am of the considered view to award interim compensation as prayed. Having regard to the facts and circumstances of this case, I am of the considered view and opinion to award 15% of the cheque amount as interim compensation to the complainant. Accordingly, I proceed to pass the following;

:: ORDER ::

The application filed by the complainant U/s. 143 A of Negotiable Instruments Act is hereby allowed.

The accused is directed to pay to the complainant, 15% of the cheque amount in respect of the cheque total amounting to Rs.75,000=00, within 30 days from the date of this order.

**Civil Judge & JMFC,
T. Narasipura.**

Call on for complainant evidence
by :

**Civil Judge & JMFC,
T. Narasipura.**