

MHKO030046642022 	<u>ORDER BELOW EH.NO.12</u> <u>S.C.C.NO.2696/2022</u> Shamlal Aaratmal Bachrani Vs Rahul Ramkrushna Wasvani
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(1) This is an application filed by the complainant under section 143-A of the Negotiable Instruments Act, 1881 (Hereinafter referred as “the NI Act”) to direct the accused to pay interim compensation.

(2) The prayer of the complainant is in nutshell as-

The complainant had given amount of Rs.2,00,000/- to the accused for business purpose in partnership. However, thereafter the accused refused the partnership. For repayment of the amount, the accused issued cheque in favour of the complainant. The complainant deposited the said cheque in the bank, but said cheque was dishonoured and returned same to the complainant. The complainant has filed the present complaint against the accused. In the above circumstances, the accused persons are liable to pay interim compensation @20% as provided in section 143-A of the N.I.Act. Hence, the application.

(3) The accused filed say to the application. The accused submitted that the present application is not legally, tenable at this stage. All contentions of present application are not true and

correct. Therefore, the application may liable to be rejected.

(4) Perused the application, say filed by the accused, complaint and documents on record. Heard both sides at length.

(5) The provision regarding interim compensation under section 143-A of the N.I.Act came into force w.e.f. 01/09/2018 by way of amendment to the N.I.Act. On perusal of record, it is seen that the cause of action to this complaint arose after enforcement of section 143-A of the N.I.Act in the month of March – 2022. Hence, this application is tenable.

(6) The record shows that the cheque in question is of Rs.1,00,000/-. The objections raised by the accused needs to be adjudicated on merits. Accused has not created a single doubt either on the transaction or on the contention in the complaint. Therefore, the contention of the complainant that accused issued said cheque cannot be ignored at this juncture. Therefore, on available record discloses the transaction in between the complainant and accused. Sufficient time is required to dispose the proceeding. In such situation, considering the object of this amendment to the N.I.Act and the material placed on record, it is seen that complainant is entitled to the interim compensation and it would be just to direct the accused to pay the interim compensation upto 10% amount of

the cheque in questions i.e. Rs.1,00,000/-. Hence, in view of above discussion, following order is passed.

ORDER

- 1] The application is partly allowed.
- 2] The accused is directed to pay 10% of the amount of the cheque as a interim compensation to the complainant within 60 days from the date of this order as per section 143-A of the Negotiable Instrument Act, 1881.
- 3] The complainant is directed to conduct the hearing of the instant matter speedily.

sd/-

Place : Kolhapur
Date : 10/08/2023

(P.B.Patil)
5th Judicial Magistrate, First Class,
Kolhapur.