

MHKO100004352023 	<u>SUMMARY CRIMINAL CASE NO. 170/2023</u> Harishchandra Naik Vs. Bipin Shivaji Bhosale
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ORDER BELOW EXHIBIT NO. 19

1. This is an application under section 143-A of Negotiable Instrument Act (hereinafter referred as 'the Act') for directing accused to pay interim compensation of 20% of the amount of cheque. Accused failed to file his say.
2. Perused the record. Heard Ld. Advocate for both Parties.
3. As per complaint offence is committed on 28/02/2023. Plea of accused was recorded on 28/11/2023 and he pleaded not guilty. As per the Negotiable Instrument (Amendment) Act, 2018, which has come into effect from 01/09/2018, the Court may order a drawer of cheque to pay the interim compensation to complainant when he does not plead guilty of accusation or upon framing of charge. Since, offence is committed after said amendment came into force, present application of complainant for interim compensation is maintainable. Said amendment provides for the grant of interim compensation up to 20% of amount of cheque.
4. In order to decide whether accused can be directed to pay such amount nature of transactions is required to be considered. As per complainant, accused told him that he is authorized broker of Sebi and he has given rights to maintain portfolio of investors and if complainant invested money he will give 30 to 50% profit from trading. Therefore,

complainant invested Rs.5,00,000/-. Due to act of accused complainant caused loss. Therefore, complainant demanded said amount from the accused and accused gave cheque No.059002 of Rs. 5,00,000/- to the complainant of Axis Bank. Till this moment, accused has placed nothing on record to show that, transaction alleged is false or that, it is something different. This case is pending for cross examination of complainant and complainant will have to wait for further time to have the adjudication of this case on merit. From the documents placed on record, prima facie there appears sufficient substance on record. No doubt, accused will have the right to rebut the case of complainant and the presumptions, but it will have to be done during adjudication of the case on merit. For this reason, I think it fit to direct the accused to deposit interim compensation in the Court & the same has to be delivered to complainant pending trial. Therefore, I think it fit to direct the accused to deposit interim compensation of 20% of cheque amount it will be Rs.1,00,000/-.

5. Said amount of Rs.1,00,000/- shall be deposited within 60 days from the date of this order and there is no sufficient ground at this moment for exceeding this time limit any further. After the interim compensation is deposited the same be given to complainant. Complainant must be directed that, if accused is acquitted, he shall repay 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 60 days from the date of the order. If complainant fails to deposit this amount after the case resulting into acquittal it will be recoverable from him as per section 421 of the Code of Criminal Procedure. If the case results into conviction the amount of interim compensation deposited by accused will be adjusted in final

amount of compensation, if any, granted under section 357 of the Code of Criminal Procedure. Hence, I proceed to pass following order;-

ORDER

- 1] Application is allowed.
- 2] Accused is directed to deposit amount of Rs.1,00,000/- (Rupees One Lakh only) to be paid to complainant within 60 days from today as interim compensation.
- 3] Complainant is directed that, if accused is acquitted, he shall repay 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 60 days from the date of the order. If complainant fails to deposit this amount it will be recoverable from him as per section 421 of the Code of Criminal Procedure.
- 4] If the case results into conviction the amount of interim compensation deposited by accused will be adjusted in final amount of compensation, if any, granted under section 357 of the the Code of Criminal Procedure.

Date: 15/03/2025.
Place : Gadhinglaj.

D. M. Pawar
Judicial Magistrate First Class,
Court No.2, Gadhinglaj.