



ORDER BELOW EXH. 13 IN S.C.C.NO. 141/2021

Sanjay Vilas Shaha Vs. Santosh Kumar Chaugle.

CNR No.: -MHKO130003982021

This is the application of the complainant filed u/s. 143(A) of the Negotiable Instruments Act, 1881 (*hereinafter will be referred as the 'N.I.Act'*) for claiming 20% of the interim compensation of the cheque amount. It is submitted that, the accused by appearing in the case has not pleaded guilty and hence, it is submitted that the accused be directed to deposit an amount of Rs. 2,60,000/- as an interim compensation before the Court.

02. The application is objected by the accused by submitting his say. It is submitted that, the accused is not liable to pay any legal dues towards the complainant. It is submitted that, the accused has repaid full amount to the complainant. The accused by his reply notice has requested the complainant not to use the disputed cheque as given for security purpose. In spite of such a factual aspects, the cheque is deposited. In the backdrop of these factual aspects, the accused has prayed to reject the application.

03. Heard both the sides.

04. It is pertinent to note that, acceptance of the amount as pleaded, at the hands of the accused is admitted by the accused in his reply notice, but the accused further has stated that, he has repaid that total amount to the complainant. Now, only dispute is pertaining to the interest over that amount which the complainant is claiming from this accused. It further appears that, in the reply

notice this accused has requested the complainant not to use the blank cheque bearing No. 000021 that was given to him for the security purpose. Thus, whether the amount is fully repaid or not will be determined on the basis of evidence at final stage. Apart from that, no sufficient reasons are mentioned in the application for awarding the description as provided in the section in favour of the complainant. Indeed, it is well settled by the Hon'ble Bombay High Court in well known latest judgment delivered in Mr. Ashwin Ashokrao Karokar Vs. Mr. Laxmikant Govind Joshi, Cri. W/P No. 48/2022 wherein Hon'ble Nagpur Bench of the Bombay High Court has held that the same provision u/s. 143-A of the N.I. Act is discretionary and not mandatory. Therefore, for want of sufficient reason and the factual aspects pertaining to the repayment of disputed amount, the application submitted by the complainant is not tenable. Hence, following order is passed.-

ORDER

1. The application at (Exh. No. 13) is rejected.

Kagal.
Date: 08/05/2023.

(**A. B. Jawale**)
Judicial Magistrate First Class,
Court No. 2, Kagal.