

ORDER BELOW EXH.47

1] This is an application on behalf of the complainant for interim compensation under section 143-A of the Negotiable Instrument Act 1981.

2] Brief facts leading to the filing of the present application, as borne out from the pleadings, are as follows:

3] The complainant states that, the accused has issued cheque bearing no.000029 of Rs. 1,00,000/- dated, 07/04/2022 and cheque bearing no.000030 of Rs.1,35,000/- dated, 15/04/2022 in favor of complainant. (hereinafter referred as 'subject cheque'.) The subject cheque was dishonored with remark "Insufficient Funds". The complainant sent a legal notice to the accused. But the accused did not pay the amount after issuance of notice u/s. 138(b) within the stipulated time of 15 days. Therefore, he is constrained to file the present complaint u/s 138 of N.I. Act. In the present matter the complainant has moved the present application to grant interim compensation u/s. 143-A of the N.I. Act as the accused is not proceeding with the matter positively.

4] Heard arguments of Ld. Advocate for complainant at sufficient length of time. Perused the record. To decide application under Section 143-A of N.I. Act it is seen that, prima-facie case is made out in favor of the complainant. This section also provides that, on acquittal of the accused, complainant is bound to return the amount of compensation paid by the accused. It appears that, the present case is filed in the year 2022. The amendment of inserting Section 143-A of N.I. Act came into effect on 01/09/2018.

5] As per the judgment passed by Hon'ble Supreme Court in criminal appeal No. 1160/2019 (Arising out of Special Leave Petition (Criminal) No. 3342/2019) G.J. Raja Vs. Tejraj Surana the Hon'ble Supreme Court of India has held that,

“In the ultimate analysis, we hold section 143-A to be prospective in operation and that the provisions of said section 143-A can be applied or invoked only in cases where the offence under Section 138 of the Act was committed after the introduction of said section 143-A in the statute book”.

6] The alleged offence is committed on 26/04/2022 i.e. after the introduction of section 143-A in the statute book. Hence, the amendment inserted on 01/09/2018 in the N.I. Act is applicable to the case in hand. In the present case the subject cheque was presented by the complainant in his bank and it were dishonored for the reason “Insufficient Funds” on dated 26/04/2022. Legal notice is sent on 24/05/2022 by RPAD. However the accused did not make the payment to the complainant. It is noteworthy that, transaction effected between the accused and complainant in 2022-2023. The complainant communicated to accused by several reminders but he failed to make the payment.

7] Issuance of subject cheque is not disputed by the accused for an amount of Rs.2,35,000/- in favor of the complainant. The application is pending since 2022. This conduct of the accused shows that he is avoiding proceeding of the case as he is not ready to record

his plea due to which the complainant could not file his evidence and the matter could not be proceeded. Therefore, the trial will take its own time. Thus, I am of view that, all the above reasons are sufficient in order to decide this application form. Thus, in such facts and circumstances of the case discretion needs to be used by granting 20% of cheque amount to the complainant in the result following order is passed:

ORDER

- 1] Application of complainant at Exh.47 is hereby allowed.
- 2] Accused is directed to pay interim compensation of 20% of the cheque amount i.e. an amount of Rs.47,000 /-(Rupees Forty Seven Thousand Only) to the complainant within 60 days from the date of this order.
- 3] If the accused is acquitted then complainant shall repay the said amount of interim compensation with interest at the bank rate as published in Reserve Bank of India prevalent at the beginning of the relevant financial year within 60 days from the order.
- 4] Both parties to proceed expeditiously.

Date : 16/03/2026.

Sd/-
(V. S. Agarwal)
Judicial Magistrate First Class,
(1st Court), Chandgad.