

MHKO170004142022 	Sum.Criminal case NO. 163/2022. Shree Warana Vibhag Sah. Grahak Mandal Ltd. Warana Bazar Vs. Sachin Sarjerao Chougule
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ORDER PASSED BELOW EXH. 12

The complainant has filed the present application for interim compensation as per provisions of amended section 143 (A) of Negotiable Instrument Act, 1881 (herein after referred as N.I. Act).

2. It is submitted by the complainant that the accused appeared in the case and pleaded not guilty therefore the matter is part heard. The complainant also filed affidavit of examination of chief. In such compelling circumstances the complainant has filed this application for grant of 20 % interim compensation and for the directions as prayed.

3. The accused filed his say and opposed the present application. It is contented by the accused that the complainant has filed false complaint against accused. Thus prayed to reject the application.

4. Perused the application, say and record of the case. Heard the advocate for the accused and complainant. Section 143 (A) (1) of N. I. Act read as - *“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 complainant and ; b) in any other case upon framing of charge.”* From the plain reading of aforesaid provision it reveals that the court has discretionary power to grant interim compensation to the complainant. It is also reveals from the aforesaid provision that the complainant can file application for interim compensation in summary cases after recording of the plea of the accused. In this case the complainant has rightly filed this application for interim compensation i.e. after the recording

of the plea of the accused. As there is issue process order was passed by my predecessor in this matter, the complainant is succeed to prove prima facie case against the accused. Therefore, the summons was issued against accused. Accordingly accused appear in the matter and pleaded not guilty. After perusal of amended provision of Section 143 (A) of N. I. Act it seen that court may grant interim compensation upto 20% of disputed cheque.

5. The accused has not come with the case that he is unable to pay the interim compensation if granted or there are no circumstances on record of the case showing that if interim compensation is granted to the complainant it will cause hardship or prejudice to the accused. The plea of the accused is recorded on 01.08.2022. In such circumstances if as per the new amended provision of N. I. Act, the interim compensation is not granted to complainant then it will deprive the complainant from the least minimum relief provided till disposal of case, as per the object of new amended provision of N.I. Act. Thus there is no hurdle to use the discretion contemplated under new amended provision of N.I. Act. In view of object of new amended provision the prayer of complainant for grant of interim compensation is liable to be allowed. Hence, following order -

ORDER

1. Application is partly allowed.
2. The prayer of complainant for grant of interim compensation is allowed.
3. Accused is directed to pay 20% of the cheque amount towards interim compensation i.e. Rs. 64,000/- to the complainant within 60 days from today.

Date : 12/12/2022.
Panhala

Atul A. Kore
Judicial Magistrate F.C., Panhala.