

ORDER BELOW EXH. 11 IN C. C. NO. 485/SC/2024

1. This is an application made by the complainant under section 143A of the Negotiable Instruments Act (for short '*the N.I. Act*') with a prayer to direct the accused to pay interim compensation to the extent of 20% of the cheque amount.

2. The complainant has contended that, the accused has pleaded not guilty. Therefore, the accused is required to be directed to pay interim compensation to the extent of 20% of the cheque amount.

3. The accused objected the application by filing say at Exh. 12 and contended that, the application filed by the complainant is not maintainable as the complainant failed to made out prima-facie case. The complainant did not fulfill the work order dated 20.08.2022. Therefore, the application is liable to be dismissed. The accused make advanced payment of Rs.43,12,737/- for the period 2022-2023. Whereas the complainant has failed to build vessel as per contract. The provision of section 143A are discretionary and not mandatory. The cheques are not given for any liability. They are given as security. The accused is going in financial crisis. The accused is Senior Citizen and suffering form serious respiratory and cardiac ailments. Hence, prays that the application be rejected. In support of contention the accused has relied upon the following case laws :-

- I) **M/s. A B Services V/s. M/s. Assured BPO Services Pvt. Ltd.**
- II) **Rakesh Ranjan Shrivastava V/s. The State of Jharkhnad and Anr. 2024 INSC 205.**

4. Heard both the sides. Perused record.

5. The case is for offence punishable under section 138 of the N.I. Act. The accused has pleaded not guilty to the accusation made in the complaint vide plea Exh. 10. In view of the provisions of

Section 143A of the N.I. Act, this Court has power to direct the accused to pay interim compensation to the complainant. The documents produced along-with the complaint *prima-facie* support the case of the complainant. The complainant filed on record the document executed between the complainant and the accused. Having regard to the object behind inserting section 143A of the N.I. Act, the application deserves to be allowed. Considering the factor given by the Hon'ble Supreme Court in case of **Rakesh Ranjan Shrivastava (Supra)** for deciding the quantum of compensation. The cheque in question is of ₹17,53,632/-. The amount of interim compensation to the extent of 5% would be ₹87,682/-. Hence, Order,

ORDER

1. Application Exh. 11 is partly allowed in the following terms.
2. Accused No. 2 shall pay ₹87,682/- (Rupees Eighty Seven Thousand Six Hundred Eighty Two only) as interim compensation to the complainant within 60 days from the date of this Order.
3. The complainant to file an undertaking to the effect that in case of acquittal of the accused or any order having effect of acquittal, the complainant shall deposit the amount of interim compensation along with interest as prescribed in section 143A(4) of the N.I. Act.

Sd/-

(M. R. Dhanorkar)

Judicial Magistrate First Class,
7th Court, Dadar, Mumbai

Date : 09.03.2026