

CNR No: PBMNB10012912019

CIS No: NACT/161/2019

GURJIT SINGH VS SATNAM SINGH etc.

**APPLICATION FOR GRANTING INTERIM
COMPENSATION AND PAYMENT U/S 143-A OF NI ACT.**

Order:

Present: Complainant with counsel Sh Ajay Kumar Nagpal Adv,
Accused on bail with counsel Sh Chamkaur Singh Adv

Heard on application filed by the complainant for granting interim compensation. Applicant submitted in the application that accused issued the cheque in question to discharge their liability towards complainant which got dishonored and complainant has filed the complaint. He further submitted that as per the recent amendment in the NI Act, under section 143-A the court has ample power to assess interim compensation and provide interim relief to the complainant. He further submitted that complainant undertakes that if accused will be acquitted, the complainant shall repay the interim compensation to the accused. He prayed that application be allowed and accused be directed to pay the interim compensation.

2. Reply filed and application opposed on the ground that present application is not maintainable. He further argued that accused has been falsely implicated. The application is itself is vague. Accused denied all the averments made by the applicant in his application and prayed for the dismissal of the same with costs.

3. Heard ld. Counsel for both the parties who argued on the lines of their version. The applicant has sought interim compensation in view of amendment in the NI Act. The Amendment incorporates **Section 143A in the Negotiable Instrument Act, 1881** which provides for the **Power to provide for interim compensation to the complainant**. Section 2 (1) of the Act provides that:

(1) 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 summon case, where he pleads not guilty to the accusation made in the complaint; and
- (b) in any other case, upon framing of charge.

4. The present application is under section 143-A for granting of compensation in view of amendment in the NI Act. In this regard it is pertinent to mention here that the court may grant interim compensation where accused pleaded not guilty. It is specifically mentioned in the Amendment Act that **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 summon case, where he pleads not guilty to the accusation made in the complaint.** In the present case notice of accusation already served upon the accused. The purpose of this amendment is to compensate the complainant and not to punish the accused. The newly incorporated section 143-A of the Act is a beneficial provision which is aimed at mitigation of harassment of the complainant on interim basis during the pendency of the trial proceedings. The provision relating to interim compensation is not absolute and is subject to a rider upon the complainant that in case the accused is acquitted after the completion of the trial then the complainant is under an obligation to return to the accused the said amount along with interest. The contention of the accused regarding misuse of cheque is a matter of evidence and other contentions cannot be looked into at this stage.

5. Accordingly, in view of above discussion, the present application moved by the complainant is allowed with the following observation that:

- (1) the accused shall pay to the complainant an amount of Rs. 11,200/- i.e 10% of the total amount of cheque in dispute as interim compensation on the next date of hearing.
- (2) in case of default is committed by the accused to pay the aforesaid amount to the complainant, then the same shall be recoverable against him as fine by resorting to section 421 CrPC.
- (3) Complainant is directed to furnish an affidavit cum undertaking before this court at the time of receipt of the said amount to the effect that in case accused is acquitted, the complainant shall repay to the accused the

aforesaid amount of interim compensation along-with interest at the bank rate of 9% per annum within 60 days from the date of the order or within such period not exceeding 30 days as may be directed by the court in future on sufficient cause being shown by the complainant. Adjourned to 17.01.2022 for compliance by the accused and for cross-examination of CWs. However, nothing mentioned herein shall have any bearing upon the merits of the case.

Shobha Steno

**Gurdarshan Singh
Judicial Magistrate, Ist Class,
Sardlgarh, UID-PB0504**

Dictated directly on computer