

MHNG080003722021



SCC No.180/2021
Naqubee -VS- Bhushan

ORDER BELOW EXH.25

(Passed on 30/01/2025)

1] This application is filed by the complainant under Section 143 (A) of Negotiable Instrument Act for direction to accused to pay compensation to the complainant. Accused filed say below Exh.26 and resisted the application.

2] Heard advocate for the complainant and the accused. Perused the complaint, the documents filed by the complainant, the application and the say filed by the accused.

3] The record shows that my Learned Predecessor recorded the plea of both the accused on 30.01.2024 below Exh.19. The accused pleaded not guilty. This application is filed on 28.02.2024.

4] The case of the complainant is that he knows the accused through Roshan Sabha. As per the say of Roshan, he helped the accused by giving handloan of Rs.13,00,000/- to the accused on various dates. After various demands for return of the money, accused issued the cheque in question to the complainant.

5] As per Section 143-A, the compensation as regards the dishonor of the cheque is prescribed in the Negotiable Instrument Act.

6] It is seen from the record that the xerox copy of the cheque is filed by the complainant below Ex.4/1 and the notice issued by the complainant to the accused is also filed along with list Exh.4/5. As per the complaint, the notice issued by the complainant on 18.01.2021 i.e. the statutory notice is received by the accused on 23.01.2021. The copy of acknowledgment is filed by the complainant along with list Exh.4/4. As per the complainant, the transaction is of handloan and the complainant has given Rs.13,00,000/- to the accused.

7] The cheque in the question is of Rs.4,00,000/- along with other three to four cheques of total amount of Rs.13,00,000/-.

8] I have carefully perused the say filed by the accused below Exh.26. In the reply accused denied the application and his legal liability. Accused only come with specific denial of the tenability of the application due to lack of affidavit and the signature of the complainant on the application. He further submitted that complainant failed to make prima facie case for the grant of compensation.

9] In the present matter, it is seen prima facie from the record that prior to filing of this complaint, complainant issued statutory notice to the accused. There is nothing mentioned by the accused about his inability to pay the amount. On the contrary the accused only denied the application by this reply. There is nothing mentioned in the application that how the custody of the cheque gone with the complainant. Thus, the accused has not reply about the suspicious circumstances as regards the prima facie case of the complainant. It is submitted by the advocate for the complainant Adv. A. S. Tarwadkar that the cheque bears the signature of the accused. She further submitted that the statutory notice was already received by the accused but he has not replied the same. She further submitted that the accused denied only the contents of the application but has not stated any specific case in his reply which shows that the complainant has no prima facie for granting compensation.

10] As per the provisions of Section 143-A of Negotiable Instrument Act, if he is recorded of the accused then complainant can file the application for compensation. The plea is already recorded. In such circumstances, at this stage the complainant prima facie proved that accused given cheque of Rs.4,00,000/- to him and the cheque was dishonor with the reason that payment

stopped by the drawer. This means accused already knows that someone is going to deposit the cheque in the bank and therefore he has stopped the payment. But the fact of stopping the payment by the accused or the reasons for the same has not been stated in the reply of this application . Therefore the complainant prima facie proved that he is entitled for the compensation as per Section 143 of N.I. Act.

11] As regards the quantum of compensation, after careful perusal of the complaint, it seems that accused taken the Hand Loan of Rs.13,00,000/- from the complainant. There is nothing put up by the accused on record that he is unable to pay the amount or his economical condition is not that much good that he cannot afford to pay the compensation. Therefore in such circumstances, compensation at the rate of 15% will suffice the purpose.

12] Hence considering all these circumstances, the application deserves to be allowed. Hence, I pass following order.

- ORDER -

- 1] The application (Exh.25) is partly allowed.
- 2] The accused is directed to pay compensation of Rs.60,000/- i.e. 15% amount of the cheque to the

complainant within 15 days from the date of order.

- 3] If accused failed to pay the compensation then complainant is at liberty to take the aid of section 421 of Cr.P.C. for the recovery of the amount.
- 4] Order is dictated in open court.

Kamptee
Date : 30/01/2025.

(Mohan R. Kamat)
Civil Judge, Junior Division,
Kamptee.