

MHNS050014772022



Order Below Exh 12-A

This is an application under section 143 A of NI Act for interim compensation. It is stated by the complainant that accused had issued cheque of Rs. 16,50,000/- of State Bank of India in favour of the complainant which came to be dishonored. The accused failed to paid cheque amount inspite of service of summons. The accused has appeared in the present case as per section 143 A of NI Act the accused is liable to pay interim compensation of 20% of the amount of the cheque. It is necessary and just to direct accused to pay interim compensation to the extent of 20% of the cheque amount to the complainant. Therefore he prays to grant the application.

2. The accused has filed say on the backleaf on the application stating that the present application is not tenable in law. No transaction was entered between the parties. The accused did not issue the cheque of Rs. 16,50,000/- to the complainant. There is no evidence showing that the complainant paid amount to the accused. Therefore, he prayed to reject the application.

3. Heard learned advocate for the parties. They submitted as per their contentions in the application and the say.

4. Section 143A of N.I.Act provides that :-

‘143A. Power to direct interim compensation.- (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 summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”.

5. Perused the record. It appears from the record that complaint is filed on 19.08.2022 i.e. after date of insertion of section 143A of NI Act on 01/09/2018. Particulars of offence were recorded and read over to the

accused as per Section 251 of Cr.P.C. He pleaded not guilty. On perusal of records, it prima facie appears that the accused has issued cheque to the complainant which came to be dishonoured. It also prima facie appears that after dishonour of cheque, notice was sent to the accused. In spite of that notice accused failed to make payment of cheque. From the say of the accused, it appears that the accused has not denied the fact that the disputed cheque bears his signature. It prima facie appears that the cheque is of the cheque book of the account of the accused. Whether signature of the accused is falsely made by any other person will be decided of the evidence. The accused has not brought on record it is prima facie material to show that accused has initiated any action against illegal act of the complainant. At this stage considering it prima facie appears that accused issued a cheque to the complainant. At the end accused is acquitted be the amount of interim compensation can be refunded to the accused as per provisional section 143-A(5). If the complainant had kept the amount of cheque in bank he would have received interest thereof. Therefore, having regard to facts and circumstances of the case, instead of granting 20% of cheque amount, if 10% of amount of cheque is directed to be pay as interim compensation end of justice will meet. Cheque is for Rs 16,50,000/-. 10% of amount of Rs 16,50,000/- is Rs.1,65,000/-. Accordingly, following order is passed.

: ORDER :

1. Application is partly allowed.

SCC No. 488/2022
Kailas Dhattrak Vs. Ranjana Hans

2. Accused is directed to pay 10 % of the cheque amount to the complainant as interim compensation within sixty days from the date of this order.

Date : 24/06/2025

(K.C.Bagal)
J.M.F.C., (Court No. 4) Nashikroad.