ORDER BELOW EXH. 17

This is an application for interim compensation under section 143 (a) of N. I. Act.

2. It is averred in the application that the complainant has filed complaint under section 138 of N. I. Act. Further it is submitted that, the accused and the complainant are friends. The accused borrowed Rs. 8,50,000/- by way of handloan from the complainant in the month of March-2020 by executing an agreement assuring the repayment on or before July-2020. But accused has failed to repay the said handloan within a stipulated period. Thereafter he issued the cheque no. 602095 towards Rs. 8,50,000/- which was deposited by the complainant in his account maintained in the Cosmos Co-operative Bank on 24.03.2023. But the said cheque has dishonered. Thereafter the complainant issued a demand notice to the accused which was duly received by him but he neither replied the same nor he paid the amount. It is further stated that, the complainant is facing heavy financial hardship due to non payment of above amount. Hence he has prayed for interim compensation upto 20% of the cheque amount.

3. The accused has submitted that, he has made attempts to compromise with the complainant. But it is failed. Further the accused has already paid Rs. 7,26,000/- to the complainant time to time by way of online payment. The said amount is 86% of the

disputed cheque amount. Therefore the complainant is not entitled to recover 20% of the cheque amount from the accused. It is further stated that, there is one CR No. 129/2023 is registered against the complainant. The disputed cheque is the subject matter of the said FIR. Hence the accused has prayed to reject the application.

4. Perused records. It is necessary to see whether the complainant has prima facie established his case against the accused or not. For that purpose the complainant has filed the agreement executed with the accused dated 05 March 2020. This document prima facie shows the transaction entered into between him and the accused. Further the complainant has prima facie complied with the ingredients of the section 138 of the N.I. Act. However on the other hand the accused has produced the documents prima facie showing the online payments made to the complainant, the total amount prima facie goes upto Rs. 7,26,000/- subject to prove by the accused during trial. This amount if it is considered prima facie then it goes beyond 20% of the disputed cheque amount.

5. Here the court wants to relie on a guidelines held by Hon'ble Supreme Court in Rakesh Ranjan Shrivastav Vs. State of Jharkhand 2024 SCC online SC 309. It is held that, for exercising the discretion under the said section the court will have to prima facie evaluate the merits of the case made out by the complainant and defence pleaded by the accused in the reply to the application. Such direction to pay interim compensation can be issued only if the complainant makes out prima facie case. The financial distress of the accused can also be a consideration. I'm of the view at this stage that, though the complainant has made out the prima facie facts regarding

the transactions with the accused. The documents regarding online payment made by the accused cannot be prima facie ignored . Hence, I am not inclined to allow the application. Hence, i pass following order

O R D E R

1. The application at Exh.17 is hereby Rejected.

PRAJKTA SHIRISH APTE
Digitally signed by PRAJKTA SHIRISH APTE
Date: 2025.08.25 16:22:28 +0530

Date:- 25/08/2025

(P. S. Apte)
Judicial Magistrate First Class
(Court No.2), Khadki, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word for word as per original Judgment.

Name of Steno	:	S. S. waykar, Stenographer (Grade III)
Court Name	:	Hon’ble Smt. P. S. Apte, J.M.F.C., Court No.2, Khadki, Pune.
Date of Order	:	25/08/2025
Judgment signed by presiding officer on	:	25/08/2025
Judgment uploaded on	:	25/08/2025