

Order below Exh. 56 in S.C.C. No. 5843/2020
(Delivered on 25th Day of August, 2023)

In a complaint under Section 138 of the Negotiable Instrument Act, 1881 (for short 'the NI Act'), the complainant has moved this application under Section 143 A (5) of the NI Act praying therein to issue warrant for the levy of an amount by attachment and sell movable properties of the accused as he failed to deposit an interim compensation awarded by this Court within 60 days from the date of order.

2. The accused failed to file his say to the application. Hence, this application is proceeded without his say.

3. Heard both sides. Perused record of the case.

4. Record shows that this court has granted an application filed below Exh. 28 by the complainant vide order dated 16/02/2023 and the accused is directed to pay 20 % amount of the cheque i.e. Rs. 3,44,776/- an interim compensation to the complainant within 60 days. Till today the accused is failed to obey the order dated 16/02/2023 passed below Exh. 28.

5. Section 143 A of the NI act enables the trial court to award interim compensation in the cases arising out of dishonour of the cheque. It is provided that the interim compensation shall be paid within 60 days from the date of order under Sub Section (1) of Section 143 A or within such further period not exceeding 30 days as may be directed by the court on sufficient cause being shown by the drawer of the

cheque. Sub Section (5) of Section 143 A of the NI Act provides that interim compensation if not prayed as provided in Sub Section (3), it may be recovered as if it were a fine under Section 421 of the Code of Criminal Procedure, 1973 (for short "the Cr. P. C.). Section 421 of the Cr. P. C. deals with the procedure for recovery of fine. It provides that the Court can adopt any of the procedure prescribed in Section 421(1) of Cr. P. C. First option with the court is to issue a warrant for the levy of the amount by attachment or sale of any movable property belonging to the offender. Second option is to issue a warrant to the Collector of the District authorizing him to realize the amount as arrears of land revenue from the movable or immovable property or both, of the defaulter.

6. In view of the aforesaid settled legal provisions, it is clear that the interim compensation order by the court under Section 143 A (1) of the NI Act can be recovered under Section 421 of the Cr. P. C.

7. The accused failed to opposed the application. Admittedly till today the accused failed to pay an amount as ordered below Exh. 14 dated 15.06.2022. Its more than 90 days elapsed but, the accused failed to obey the order. There is no any sufficient cause shown by the accused precluding this court from passing any such order. Even it is also not the say of the accused that he has challenged the order before the appellate Court. Therefore, this application deserved to be allowed. As the complainant moved this application praying for issue of warrant of attachment and sale of movable properties of accused, it would be appropriate to go for Section 421 Cr. PC,

i.e. first option as described above. In the result following order is passed.

Order

1. Application Exh. 56 is allowed
2. Issue warrant for the levy of amount by attachment and sale of movable properties of the accused.

Pimpri, Pune
Dated : 25/08/2023

(R. M. Giri)
Judicial Magistrate First Class,
Pimpri, Pune.

CERTIFICATE

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

Name of Steno : Smt. K. U. Pawar
Court Name : Shri. R. M. Giri
Judicial Magistrate First Class,
Pimpri, Pune.

Date : 25/08/2023

Judgment/Order signed by
presiding officer on : 29/08/2023

Judgment /Order upload Date : 29/08/2023