

C.N.R.No. MHPU18-000124-2016
Exh. 19

S.C.C.No-41/2016
Shivkrupa Patsanstha
V/s. Shalan shende



ORDER BELOW EXH. - 33.

This is an application for interim compensation to the extent of 20 % of the disputed cheque.

2. It is averred in the application that the complianant has filed complaint under section 138 of N. I. Act. Further he submitted that as per this act complainant is entitled to get 20 % of compensation amount as per amendment. Further submitted that, accused is appeared in the matter he did not pleaded guilty. Therefore, he prayed to direct the accused to pay interim compensation @ 20 % of cheque amount i.e, 5,00,000/- (Five lakh Only).

3. Accused has filed his reply on the rear side of the application he opposed the application. He submitted that the application is not tenable. The application is not within limitation. Case is filed in the year 2016. The present application is filed in the year 2022. The amended section 143 (a) of Negotiable Instrument Act was inserted in the act by amended 2018. Therefore the application is not binding on the accused and section 143 (a) is not applicable to the present case. Hence, prayed for rejection of the application.

4. Heard Ld. Advocate of both the sides. It is the matter of

record that accused has filed his appearance and has pleaded not guilty. Section 143 (a) of N. I. Act read as under. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) 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.

5. In view of say filed accused has submitted that the present application is filed in the year 2022. The amended section 143 (a) of Negotiable Instrument Act was inserted in the act by amendment 2018. Therefore the application is not binding on the accused and section 143 (a) is not applicable to the present case. The amended section 143 (a) of Negotiable Instrument Act was inserted in the act by amendment 2018. Section 143 (a) of the act is prospective in nature and confined to cases where offences were committed after the introduction of section 143 (a). Record shows that the complaint is filed on 20/01/2016. The offence was committed much prior to the introduction of section 143 (a). The applicability of section 143 (a) of the act is prospective in nature. However, the case is filed in the year 2016. Therefore, amended section 143 (a) is not applicable in the case in hand. In view of discussion made above applicant is not entitled to the benefit of the amended section 143 (a). Therefore, he is not entitled to get 20 % of compensation amount as per amendment. Hence, I pass following order.

ORDER

The application is rejected

Date-15.04.2023

Sd/-xxx
(S.D. Mukkanwar)
Judicial Magistrate First Class,
(Court No. 3) Daund, Dist.- Pune

CERTIFICATE

I affirm that the contents of this P. D. F. file order are same, word to word, as per the original order.

Name of the Stenographer : D. R. Kore, Stenographer
(Grade -III)

Name of Court : Smt. S.D. Mukkanwar
2nd Jt. C.J.J.D , Daund
Tq. Daund, Dist. Pune

Date of order : 15/04/2023.
order signed by the P.O. on : 15/04/2023.
order uploaded on : 17/04/2023.