

MHPU180025652022



ORDER BELOW EXH.18 IN S.C.C. NO.928/2022

[Daund Taluka Gramin Bigarsheti Sahakari Patsanstha Maryadit, Patas, Tal. Daund, Dist. Pune
through Bharat Mansing Shitole Vs. Vijay Ulhasrao Deshmukh]
(Passed on 02.01.2024)

This is an application filed by the complainant under Section 143A of N.I. (Amendment) Act, 2018 for grant of interim compensation. It is contended in the application that accused appeared, furnished bail bonds and accused pleaded not guilty. Accused has issued cheque of Rs.4,58,937/- in favour of complainant. As per Section 143A of N.I.Act, 2018, the accused is liable to pay to the complainant interim compensation of 20% of amount of cheque i.e. Rs.91,787.40/-. On all these grounds, he prayed for directions be given to accused about payment of interim compensation to the complainant.

2] On the contrary accused has opposed said application and filed his say on back side of this application. He denied all the contention of complainant and submitted that the application is false. The accused is not liable to pay any legally enforceable debt. Complainant has without giving any information to the accused used cheque by deceiving accused. He has strong possibility to acquit from this case. Application is filed only to harass the accused. If the application is allowed then it will cause injustice to the accused and he will face difficulties. Hence, he prayed to reject the application.

3] Heard Ld. Advocate Shri. R. S. Ghogare for the complainant and Ld. Advocate Smt. D. S. Shelake for the accused at length.

4] Perused Negotiable Instrument (Amendment) Act, 2018, Section 143A inserted which is prescribed as under :-

“143A. (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.

..(2)..

(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 Section-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 cheque.

(4) If the drawer of 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] As per Section 143A(1)(a) if the accused pleaded not guilty of the accusation made in complaint the interim compensation in Sub Section (1) shall not exceed 20% amount of cheque. In present case complaint is filed on 21.11.2022 and it is registered on 13.12.2022. Process issued on 02.03.2023. After, issuance of summons it was duly served on accused. Thereafter, accused appeared and furnished bail bonds on 14.08.2023. On the same day plea of accused is recorded vide Exh.17. He pleaded not guilty and desires to conduct the trial. The controversy between parties cannot be looked into at this stage. The signature on cheque not denied by the

..(3)..

accused. Therefore, without going to look merits of main complaint at this stage. The disputed cheque is of dtd.21.07.2022 i.e. after amendment in N.I.Act it is enforced on 01.09.2018. Therefore, the provision is applicable to this case.

6] Therefore, in view of amendment at No.20 of 2018 and Section 143A(1)(a) of the N.I.Act w.e.f. 01.09.2018 as the accused wants to contest the case. Considering aforesaid reasons, discussions and statutory provision application deserves to be allowed. In result I pass following order :-

ORDER

- 1) Application is allowed.
- 2) Accused is directed to pay 20% of the cheque amount i.e. Rs.91,787.40/- (Rupees Ninety One Thousand Seven Hundred Eighty Seven and Fourty Paise only) towards interim compensation to the complainant within 60 days from today itself.
- 3) On failure of the accused to pay the interim compensation, the complainant is at liberty to take effective steps.

Sd/-

Date : 02.01.2024.
Place : Daund.

[**Smt. J. S.Khedkar-Goyal**]
J.M.F.C. (Court No. 01), Daund,
Tal. Daund, Dist.Pune.

..(4)..

CERTIFICATE

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

Name of Steno	:-	P. D. Jagatap.
Name of the Court	:-	Smt. J. S. Khedkar-Goyal, J.M.F.C. (Court No.1), Daund, Tal. Daund, Dist. Pune.
Order date	:-	02.01.2024.
Order singed by the Presiding Officer on	:-	02.01.2024.
Order uploaded on	:-	02.01.2024.