

CNR No. MHPU-2300-1367-2021	Sachin Borhade Vs. Rajashree Borhade
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ORDER BELOW EXH 14 IN S.C.C. NO.615/2021

This is an application filed by the complainant under section 143-A of Negotiable Instrument Act, 1881 for directing the accused to deposit interim compensation pending the trial.

2) The complainant vide this application contends that, in view of new amended provisions of Negotiable Instrument Act, 1881 the accused be directed to pay interim compensation. In this matter plea is recorded before the Court and accused pleaded not guilty. As per the amendment accused should be directed to deposit maximum of cheque amount which is 20% of 10,20,000/- which is Ra.2,04,000/- only. So, in the interest of justice it is just and proper to direct the accused to deposit the 20% cheque amount.

3) The accused has filed her say over back leaf of the application and contended that, application is false and bogus. There was no transaction took place between accused and complainant. There is no evidence against accused. She was never done any economic transaction with Complainant. Therefore, application is required to be rejected.

4) Perused the application and say. Heard. Before adverting to decide contentious issue it is pertinent to note that, the object of the Amendment Act, 2018 in Negotiable Instrument Act, 1881 is to reduce the pendency of case in N.I. act & reduce delay in trial. The essence of the

amended provisions which is drawn towards faster disposal of N.I. Act case which may come out as a boon to the present system. Though word 'may' is used in Section 143-A the discretion is given to the Court whether such direction to pay interim compensation is ordered to be paid or not.

5) At this it is relevant to note that the case law of Hon'ble Apex Court in **Rakesh Ranjan Shriwastawa Vs. State of Jharkhand and Anr. : 2024 Live Law (S.C.) 235** wherein Hon'ble Apex Court has held that

"The Supreme Court stated that, an order directing the accused to pay interim compensation to the complainant shouldn't be passed mechanically but the Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application under sub-section (1) of Section 143A while deciding the application seeking interim compensation.

"The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation", the court observed."

"The Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, and the paying capacity of the accused", the court added.

"In a nutshell, the court said that while deciding the prayer made under Section 143A the Court must record brief reasons indicating consideration of all the relevant facts."

6) In view of law laid down by the Hon'ble Apex Court the provisions of said Section 143-A is not a mandatory and directory provision. Hence, I proceed to pass following order:-

ORDER

Application **Exh.14** is hereby rejected.

Dt.-15/07/2026

(Smt.J.C.Gupta)
Judicial Magistrate First Class
Khed-Rajgurunagar, Dist-Pune.