

ORDER BELOW EXHIBIT 12 IN S.C.C NO. 60/2022

This is a complaint U/Sec. 138 of Negotiable Instrument Act, in which present application is filed by the complainant U/Sec. 143(A) of the N.I.Act for seeking interim compensation .

02. Perused the application and say. Heard both sides.

03. It is submitted on behalf of complainant that the complaint has been registered against accused U/Sec. 138 of N.I.Act for dishonor of cheque no. 027572 and 027573. The accused is liable to make the payment of cheque amount but he has failed to make the payment. It is further submitted that, accused is liable to pay interim compensation to the extent of 20% on cheque amount to the complainant. Thus, complainant has prayed for interim compensation.

04. The Ld. Advocate for the accused has strongly objected the application and submitted that application is false and frivolous. The application is tenable only after accused pleaded not guilty to the allegation made against him. It is further submitted that, accused was not legally liable to make payment of the cheque amount and cheque were not issued in the name of the complainant. It is further submitted that, postal acknowledgment receipts in respect of notice filed on record do not bear signatures of the accused. The complainant has not produced on record any documentary evidence to show that complainant was working towards accused or accused was liable to make payment to the complainant. The complainant has no right to file present application. On the basis of these submission, Ld. Advocate for accused has prayed for rejection of the application.

05. It is settled position of law that the application for interim compensation U/Sec. 143(A) of N.I.Act is maintainable only

after accused pleaded not guilty to the crime alleged against him. It is submitted on behalf of defence that, the present application is immature as it has been filed prior to plead guilty of the accused. I have gone through the record, accused has not pleaded guilty to the crime alleged against him on 12/08/2022. It is quite clear from the record, that the present application for interim compensation is filed on 07/07/2022. The application for interim compensation has been filed by the complainant much prior to the recording plea of the accused, therefore, the present application is not tenable. Thus, application being not tenable is liable to be rejected. Hence, following order is passed.

-: ORDER :-

1. Application at exh.12 stands rejected.
2. No order as to Costs.

Date : 21/03/2023

Amardeep D. Tidke

Place : Malvan

Judicial Magistrate First Class, Malvan.