ORDER BELOW EXH.18 IN S.C.C. No. 02/2022

This is an application filed by the complainant for 20% of cheque amount as an interim compensation under Section 143-A of Negotiable Instrument Act (herein-in-after referred to as N.I.Act for sake of brevity)

2. Complainant has filed present complaint for the offence punishable under section of 138 of Negotiable Instrument Act. The Development Agreement was prepared between the complainant and accused. As per development agreement accused has not paid remuneration amount to complainant as per said development agreement in time and cause loss of complainant. Hence, accused has given cheque of Rs. 10,00,000/- (Rs. Ten lakhs) towards remuneration amount. The said cheque is dishonored.

3. The accused has filed his say at Exh. 22. He contented that, application is false and frivolous. He has not trying to prolong the matter. Accused has not pleaded guilty. Complainant has filed such application and trying to prolong the matter. Complainant has demanded huge amount. Present application is not tenable in the eyes of law. Hence, he prayed for rejection of application.

04. Read the application and say. Heard learned Advocates for the parties at length.

05. I have given anxious consideration to the rival contentions of the parties and argument canvased by their Learned Advocates. Keeping in mind submissions turns proceed to appreciate the merits of the present application.

06. Present application is filed under Section 143-A of Amended Act, which reads as under;

<u>Section 143- A.</u> *(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*

(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 sub-section (1) shall not exceed twenty percent 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 the cheque.

(4) If the drawer of the 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 357of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.".

06. The present Amendment is aimed to reduce the pendency ratio of cheque bounce cases and appears to be a step taken towards improvement in the current scenario. The amended provisions could pave the way towards enhancing the trade and commerce industry and allowing various lending institutions to promote and stimulate finances in the economy. It is also likely

to strengthen the credibility of issued cheque which will largely contribute towards building business relations. At the same time, it cannot be ignored that, although the amended provisions are likely to bring in better efficacy and credibility of cheque drawn, yet the offence is still being categorized as a bailable offence with a maximum imprisonment of 2 years.

07. Perused the record. Perusal of record shows that, the accused pleaded not guilty to the accusation made in the complaint 17/10/2022. So also, the amended provision laid down under Section 143A of N.I Act applies prospectively with effect from 01/09/2018. Admittedly, the present application has been filed after 01/09/2018 and hence amended provision applies to the present case. Considering the huge amount cheque of Rs. 10,00,000/-, it will proper to order the accused to pay interim compensation to complainant. As the complainant is eligible for getting the interim relief f interim compensation. In view of above discussion I proceed to pass following order.

:: O R D E R ::

01. Application is allowed.

02. The accused is directed to pay 20% of cheque amount in tune of Rs. 2,00,000/- (Rs. Two lakhs only) to the complainant as interim compensation within 60 days from the date of this order under Section 143-A(3) of N.I. Act.

Sd/-

Date:- 23/10/2023 (Smt. N.B.Ghatage)

Place:- Deogad. Judicial Magistrate First Class

Deogad.