

MHSN030044622023 	<u>S.C.C. No.10/2024</u> Ashwin Vijayrao Pawar Vs Akbar Bakhtavar Momin
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ORDER BELOW EXH.13(Passed on 20th December, 2024)

This application is moved by the complainant for seeking interim compensation under Sec.143-A of the Negotiable Instruments Act,1881 (Hereinafter referred as “N.I. Act” for short and brevity).

2. It is the contention of the complainant that, the complainant and accused know each other and having friendly relations. Therefore, the accused demanded Rs.30,00,000/- from the complainant for his medical and other financial needs. Considering his needs, the complainant transferred Rs.16,00,000/- to the accused through RTGS on 04.07.2020 and as accused was suffering from Corona and for the treatment of which the complainant give of Rs.14,00,000/- to him at the end of 2020 in cash. Accordingly, the amount due from the accused is of Rs.30,00,000/-. The accused agreed to pay the said amount on 21.03.2021. However, the accused orally sought time and considering their relations, the complainant waited till 31.03.2021. However, the accused failed to repay the amount within time. For his dues, the accused issued cheque which is disputed in present case for the amount of Rs.30,00,000/-. However, the said cheque dishonoured Therefore, the complainant has to file the present complaint against the accused persons under Section 138 of N.I. Act. As per new amendment of N.I. Act, the accused has to deposit 20 percent amount of cheque as an interim compensation. Hence, the complainant prayed to direct the accused persons to deposit 20 percent amount of the cheque.

3. The accused persons filed their reply below Exh.15 and opposed the application. It is stated by the accused persons that, the said application is false, frivolous and devoid the merit of the case. The direction u/s 143-A of the N.I. Act is not mandatory but directory in nature. So also, it is specifically stated that, the amount due from the present accused is only of Rs.16,00,000/- and not of Rs.30,00,000/-. The accused is ready to pay Rs.16,00,000/- to the informant. The complainant misused blank cheque issued by the accused as a security. Hence, he prayed for rejection of application with cost.

4. Heard Ld. Advocate for the complainant and the accused at length.

5. On rival contentions of both sides following points arise for my determination to which I have given my findings alongwith reasons thereon as follows.

<u>S.No.</u>	<u>POINTS.</u>	<u>FINDINGS.</u>
1.	Whether complainant is entitled to interim compensation under Sec. 143-A of N.I.Act? If yes, at what rate?	No.
2.	What order ?	As per final order.

REASONS.

AS TO POINT NO.1 :

6. It is submitted by the Ld. Advocate on behalf of the complainant that, considering the amount due from the accused it is necessary to allow the application. It is further submitted that, though the word 'may' is used in the Section 143-A of the N.I. Act, in some cases it has

to be read as 'shall.' The new amendment is incorporated in the N.I. Act for beneficial of complainant as well as accused. Hence, he prayed to grant 20 percent amount of the cheque as interim compensation.

7. On the contrary, the Ld. Advocate for the accused submitted that the court has to consider the object of new amendment. It is to be seen that, the party who did not cause delay should not be suffered by the new amendment. Accused is ready to proceed the matter expeditiously. Hence, he prayed to reject the application.

8. Considering the submissions of both the parties, it is seen that both parties gave more emphasis on the nature of Section 143-A of the N.I. Act. The Hon'ble Bombay High Court in the case of **Ashwin Ashokrao Karokar V/s. Laxmikant Govind Joshi in Cri. Writ Petition No. 48/2022** held that “the provisions of Section 143-A of the N.I. Act are directory and not mandatory. It is also held by Hon'ble High Court that, the court has to record reasons for determining the quantum of interim compensation in a case which deserves award of interim compensation which can be anywhere upto 20 percent of the cheque amount.” In view of above case law it is crystal clear that, Section 143-A of N.I. Act is directory in nature and court has to record reasons for determining quantum of interim compensation. Therefore, it is to be seen that Whether in this case directions can be given to the accused to deposit interim amount of 20 percent of cheque?

9. By way of this application the complainant claimed 20 percent of cheque amount as interim compensation. The accused persons raised an objection that the reason for this application are false and complainant deliberately delay the proceeding of the case. However, at the same time

the accused has accepted that he has due of Rs. 16,00,000/- towards the complainant. I have perused record of the case. It appears that, the present complaint is for dishonor of cheque of ₹ 30,00,000/-. The present complaint is filed on 27.12.2023 and the accused is appeared on 03.07.2024. Thereafter, the plea of the accused is recorded on 03.07.2024 and accused did not plead guilty. At present the complaint is pending for the evidence of complainant. The complainant failed to lead evidence for 4 dates and thereafter filed this application. Therefore, it can be seen that there is delay on the part of the complainant in this matter. Admittedly, the power under section 143-A of N.I.Act is discretionary, but at the same time, the court has to exercised discretion wisely and objectively according to facts and circumstances of each case. Section 143-A of the N.I. Act was introduced with reason for speedy disposal of the cases and to discourage frivolous and unnecessary litigation.

10. As mentioned earlier the object of insertion of Section 143-A of the N.I. Act was to obviate the delay occasioned in the decisions of matters of Section 138 of the N.I. Act. Considering the above reasons, I am not inclined to allow this application. Hence, I answer point No.1 accordingly, and to answer point No.2, I pass the following order.

ORDER

The application below Exh.13 is rejected.

Sangli.

Date :- 20/12/2024

(Rohini S. Patil)

4th Judicial Magistrate First Class,
Sangli.

CERTIFICATE

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

Name of the Stenographer. : Shri. S. A. Jamadar, (Grade-III)
Court. : 4th Judicial Magistrate F.C., Sangli

Date. : 20.12.2024
Judgment signed by the
Presiding Officer on. : 20.12.2024

Judgment uploaded on. : 21.12.2024