ORDER BELOW EXH. 20 IN SCC NO. 602/2022

Sachin Sagare Vs. Sikandar Bansode

(CNR-MHSN070012002022

This application is filed by the complainant under section 143(a) of The Negotiable Instrument Act, 1881 for directing accused to pay interim compensation.

2- Accused filed his reply and thereby, opposed this application on the ground that false complaint has been filed. He contended that he is not liable to pay any legal debt to the complainant. There is no prima facie evidence is given by complainant. He further contended that he has not issued cheque in favour of complainant. In view of above reasons, accused prayed for rejection of the application.

3- On 04-09-2023 substance of accusation has been recorded to which accused has pleaded not guilty. Perused the application and reply. Heard argument of both parties. The Ld. Advocate for complainant argued that accused has taken hand loan of Rs. 1,00,000/- from the complainant and for the repayment of said amount accused has issued present cheque, which returned unpaid for reason fund insufficient. Therefore, accused is liable to pay interim compensation. On the other hand, the Ld. Advocate for accused argued that false application is filed. Accused had never taken alleged amount from the complainant. Therefore, he is not liable to pay alleged amount to the complainant.

4- Section 143-A has been inserted in the Negotiable Instruments Act by the Negotiable Instruments (Amendment) Act, 2018. By way of this amendment, the provision of interim compensation has been incorporated in the Negotiable Instruments Act,1881. Only prohibition is that interim compensation shall not exceeds twenty percent of the cheque amount.

5- In the present case, complainant has filed on record a copy of cheque dated 20-10--2022, amounting to Rs.1,00,000/-. Prima facie accused appears to be drawer of the said cheque, which has been dishonored for the reason of fund insufficient. Accused did not dispute his signature over the disputed cheque. Furthermore, complaint prima facie discloses that accused has taken hand loan of Rs. 1,00,000/- from the complainant. As stated above, issuance of cheque is not disputed by accused, therefore, further proof is not necessary at this stage. Probable defences taken by accused cannot be considered at this stage without their proof. Accused did not explain why cheque came into possession of complainant. Therefore, it is matter of trial whether cheque was given to complainant or not. Further, documentary evidence can be considered at the stage of trial. At this stage the proof of document is not necessary.

6. Considering all above facts and amendment in the N.I.Act, application deserves to be allowed. I do not find any reason to disbelieve averment of this application. Accused has not taken ground of his inability to pay interim compensation. To protect the interest of complainant and for achieving object of amended provision section 143-A, it is necessary to order the accused to pay interim compensation to the complainant. In the result, application deserves to be allowed. The complainant is entitled for interim compensation of 20% of cheque amount. Therefore, accused shall be directed to pay 20 % of the cheque amount as an interim compensation to the complainant. In view of above reasons, I pass following order-

ORDER.

1. Application at Exh. 20 is allowed.

2. Accused is directed to pay 20% of the cheque amount i.e. Rs 20,000/-(Twenty Thousand only) as an interim compensation to the complainant.

3. Accused is directed to pay an interim compensation amount within sixty days from today.

ARUN RAGHUNATH VYAWAHARE

Digitally signed by ARUN RAGHUNATH VYAWAHARE
Date: 2024.04.23 10:50:55 +0530

Date : 22.04.2024

[A.R.Vyawahare]
Judicial Magistrate, First Class,
Kavathe-Mahankal

Kavathe-Mahankal

Certificate

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

Name of the Stenographer	- H.P.Haridas
Court	- CJJD and JMFC, Kavathemahankal.
Date	-22.04.2024
Order signed by the Presiding Officer on	-22.04.2024
Order uploaded on	-23.04.2024