

UPBR010054502026

**IN THE COURT OF SESSIONS JUDGE AT BAREILLY**

In Presence of: Pradeep Kumar Singh II,...H.J.S.

Criminal Revision No. 138 of 2026

Akhilesh Kumar, son of Dal Chand, resident of Village- Delpur, Police Station- Shergarh, District- Bareilly.

.....Revisionist***Versus***

1. Harprasad, son of Fundan Lal, resident of village- Simrawa, Post- Nagariya Sovrani, Police Station- Shergarh, District- Bareilly.
2. State of U.P

.....Opposite Party**J U D G M E N T**

1. This criminal revision is preferred against the order dated 27.02.2026 passed by the Court of Additional Chief Judicial Magistrate, Court No. 5, Bareilly in Complaint Case No. 7112/2023 (Harprasad Vs. Akilesh Kumar) under Section 138 Negotiable Instrument Act, 1881 (In short N.I. Act), Police Station-Kotwali, District-Bareilly, granting interim compensation under Section 143A of the N.I. Act and directing the Revisionist to pay 15% of the cheque amount which comes up to the tune of Rs. 30,000/- as interim compensation.
2. The present revision is moved mainly on the ground that the impugned order dated 27.02.2026 passed by the learned Trial court is contrary to law and facts and is liable to be set aside. The learned Trial court failed to consider the fact that granting interim compensation under Section 143-A of the N.I. Act is 'discretionary' and not 'mandatory'. The Hon'ble Supreme Court, in the case of **Rakesh Ranjan Shrivastava vs. State of Jharkhand & Ors.**

(Special Leave Petition (Crl.) No. 741/2024), has clarified that the court must record cogent reasons while ordering compensation, which is absent in the impugned order. The complainant is a person of means and does not require any financial assistance. The revisionist has clarified regarding Cheque No. 000001, in his objection that his signature is not affixed on the cheque and the complainant obtained it fraudulently. Prima facie case is not in favor of the complainant. The revisionist has also submitted evidence of an online transaction of ₹20,000/- (dated 26.04.2024) in his objection, which the learned Trial court ignored while passing the order. The revisionist has clearly stated that the complainant obtained the cheque, kept in his house from his wife by lying and intimidating her. Subsequently, he attempted to forcibly extort money by using threats. Out of fear, the revisionist did not report the incident to anyone; the complainant took advantage of this and, through intimidation, got ₹20,000 transferred online from the revisionist to his own account on 26/04/2024. This renders the cheque disputed. The recoverable debt is not established prima facie, interim compensation should not be awarded. The revisionist has never admitted liability regarding the cheque. The Trial court passed the order in a mechanical manner without considering the revisionist's arguments or the surrounding circumstances. The revisionist is not engaged in any business involving embroidery on garments. The allegations leveled against him are false and baseless.

3. The notices were issued to the respondent. Learned counsel Sri. Satish Chandra Gangwar Advocate appeared for respondent No. 1.
4. On the last date fixed i.e on 30.06.2026 none was present for revisionist. On the other hand, the learned counsel for respondent was present. The revision application could not be dismissed on default. Hence, heard the learned counsel of respondent and opportunity of argument on any working day during court hours was afforded to revisionist before the passing of judgment. But neither

the revisionist nor his learned counsel appeared on any working day since 30.06.2026 to 08.07.2026 for placing their arguments.

5. Learned counsel for respondent No. 1 argued that the learned Trial Court has passed the well versed order. Therefore, the revision should be dismissed.
6. This court has gone through the record of learned trial court and also perused the impugned order.
7. As per brief facts of the case the respondent No. 1 launched the complaint against the revisionist under Section 138 N.I Act, Police Station- Kotwali, District- Bareilly with allegation that the revisionist is engaged in the business of Zari (gold/silver thread) embroidery on cloth; the complainant used to take cloth from the revisionist for embroidery work, get the embroidery done, and return the finished goods to the revisionist after collecting his wages. In this manner, the complainant continued to take cloth, get it embroidered, and return it, but the revisionist failed to pay the complainant's embroidery wages. Consequently, an amount of ₹2,00,000/- became due to the complainant from the revisionist. When the complainant repeatedly demanded this amount, the revisionist issued a signed cheque drawn on Bank of Baroda, Shergarh Branch, District Bareilly (Cheque No. 000001, Account No. 13570100020352, IFSC Code- BARBOSHE BAR, dated 30.05.2023 to the complainant, assuring him that the sum of ₹2,00,000/- would be received as soon as the cheque was presented to the bank. The Complainant deposited the aforementioned cheque into his bank account; however, the bank returned the Opposite Party's cheque on 19.06.2023, stating that there were insufficient funds in account and consequently, the Complainant could not receive payment for the cheque issued by the revisionist. The Complainant served a legal notice upon the Opposite Party on 11.07.2023, which was duly received by the Opposite Party on 12.07.2023; however, the Opposite Party neither replied to the notice nor returned the Complainant's money.

8. Therefore, the complaint was filed on 02.08.2023. The revisionist was summoned by the Trial Court vide order dated 07.03.2024. The accused surrendered before the Trial Court on 02.12.2024. The statement under Section 251 Cr.P.C was recorded on 09.01.2025. Thereafter the case was posted for evidence of complainant.
9. It is pertinent to mention here that the application **14 ka** under Section 143-A N.I. Act was moved by the complainant on 21.03.2025 although it bears date of 20.02.2025 and the objection dated 16.06.2025, **19 ka** was filed by the revisionist. The replication dated 26.06.2025 filed by the respondent which is marked as paper no. **15 ka**.
10. It is mentioned in the application 14 ka that the cheque amount is not paid to the complainant. The complaint is filed before the Court. The accused appeared in the Court. He did not pay any amount to the complainant. Therefore, 50% of the cheque amount is prayed as interim compensation to contest the case.
11. The revisionist/accused moved objection **19 ka** against the said application and mentioned all facts which are already narrated in para-2 of the revision. Hence, these are not reiterated here.
12. The respondent denied all facts and allegations raised by the revisionist in his objection. The cheque in question was issued by the revisionist. It is mentioned in the replication that wife of revisionist is working in a financial bank on commission. She is well educated lady. If any work is taken from her on threat, any person may abstract money from her. It is also clarified that the payment of Rs. 20,000/- was made to him on 26.04.2024 which has no connection with dishonoured cheque.
13. The learned Trial Court has mentioned its conclusion in the order as follow:-

"पत्रावली के सम्यक परिशीलन से विदित होता है कि परिवादी द्वारा प्रश्नगत चेक की धनराशि मु० 2,00,000/- रुपये का 50 प्रतिशत धनराशि बतौर अंतरिम प्रतिकर दिलाये जाने हेतु यह प्रार्थना पत्र

प्रस्तुत किया गया है। अभियुक्त द्वारा अपनी आपत्ति में कहा गया है कि उसने परिवादी को किसी प्रकार का चेक भुगतान हेतु नहीं दिया है। परिवादी उसकी पत्नी को डरा धमका कर उसके घर में रखा हुआ उसका चेक उसकी पत्नी से ले गया, जिससे ऐसा प्रतीत होता है कि अभियुक्त पक्ष द्वारा मात्र बचाव हेतु यह अभिकथन किया जा रहा है। माननीय उच्चतम न्यायालय द्वारा राकेश रंजन श्रीवास्तव बनाम झारखण्ड राज्य व अन्य (किमि० अपील नं० 741/2024, आदेश दिनांकित 15.03.2024) में यह अभिनिर्धारित किया गया है कि धारा-143 ए एन०आई० एक्ट के अन्तर्गत प्रदत्त शक्ति का प्रयोग न्यायालय के विवेक पर है तथा यह प्रावधान वैवेकीय है, न कि आज्ञापक। इस मामले में माननीय उच्चतम न्यायालय द्वारा इस शक्ति का प्रयोग करने के कई मापदण्ड भी बताये गये हैं, जैसे कि प्रथम दृष्टया परिवादी के मामले में मेरिट होना, सम्बन्ध की प्रकृति, अभियुक्त व परिवादी के बीच सम्बंध इत्यादि। धारा-143A एन०आई० एक्ट का उद्देश्य अंतरिम क्षतिपूर्ति के रूप में तुरन्त राहत प्रदान करना है। अभियुक्त द्वारा अपनी आपत्ति में प्रश्नगत चेक पर स्वयं के हस्ताक्षर से इंकार नहीं किया गया है।

मामले के समस्त तथ्य एवं परिस्थितियों को दृष्टिगत रखते हुए परिवादी का प्रार्थना पत्र निम्नांकित शर्तों के अधीन स्वीकार किये जाने योग्य है।"

14. From marshalling of the order as mentioned above, it is precipitated that the learned Trial Court has mentioned grounds to be considered at the time of disposal of the application but did not observe any such ground available or not in the case in hand. After mentioning the grounds the Court directly drawn conclusion. There is gap between possible grounds to allow the application.
15. Before touching the merit of the case, it would be appropriate to deal with the legal position of the provision subsumed under Section 143A of N.I. Act.
16. Section 143A of N.I. Act provides jurisdiction to a trial Court while trying an offence under Section 138 N.I. Act, to grant interim compensation. It is further provided that in a summary trial or a summon case, where the accused pleads not guilty to the accusation made in the complaint and in any other cases upon framing of charge, the interim compensation may be awarded. The maximum limit of interim compensation is 20% of the cheque amount. It is

further provided that the said compensation shall be paid within 60 days from the date of order and this period may be extended by the Court up to 30 days on sufficient grounds. In a case of acquittal, the Court shall direct the complainant to repay the interim compensation along with interest. The interim compensation shall be recovered as fine under Section 421 of Code of Criminal Procedure, 1973 and the compensation awarded under Section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the said amount of interim compensation.

17. In the case of **Pawan Bhasin Vs. State of U.P., 2023 SCC Online SC 1314; (2023) 3 CRIMES 167**, the Hon'ble Supreme Court has been pleased to endorse that the interim compensation can be directed to be paid only after the accused has pleaded not guilty in Para-6, which reads as follows:-

“6. As is evident from plain reading of Section 143A (1)(a), it is only where the accused “pleads not guilty” of the accusation made in the complaint that interim compensation under Section 143A (1) can be granted. In the present case, the Magistrate did not issue the order after the plea of the accused was entered, but before that i.e. after he answered the summons. The parties counsels were present at an intermediate stage of proceedings, but before the plea of “not guilty” was entered.”

18. The exception carved out by the Hon'ble Supreme Court in the case of **Rakesh Ranjan Srivastava Vs. State of Jharkhand (2024) 4 SCC 419** is also relevant to cite here while evaluating an order passed under Section 143A of N.I. Act. In this case, the Hon'ble Supreme Court has passed the judgment on 15.03.2024 and held that the word “May” used in the provision cannot be construed as “Shall” and the provisions of Sub-section (1) of Section 143A of the Act is discretionary. The Hon'ble Supreme Court has summarized the conclusion in Para 19, which reads as follows:-

“Subject to what is held earlier, the main conclusions can be summarised as follows:

a. The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not mandatory. The word “may” used in the provision cannot be construed as “shall.”

b. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.

c. The broad parameters for exercising the discretion under Section 143A are as follows:

i. 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. The financial distress of the accused can also be a consideration.

ii. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.

iii. If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.

iv. If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to Crl. Appeal No. 741 of 2024 Page 18 of 18 consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.

v. There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.”

19. From the law mentioned above, there is no doubt that the Court has jurisdiction to grant interim compensation but it is also a solemn duty of the court to record brief reasons indicating consideration of all relevant factors, while in the case in hand, the perusal of order transpires that the prima facie evaluation made out by the complainant and the merit of the defence pleaded by the accused in reply to the application is not reflecting in the impugned order. The order also does not consist the observation regarding financial distress of the accused. The satisfaction over the prima facie case made out is also not recorded in the order. The impugned order also does not indicate the application of judicial mind to the quantum of interim compensation as required by the Hon’ble Supreme Court in the case of **Rakesh Ranjan Srivastava (supra)**.

20. From the discussions mentioned above, this Court reached on conclusion that the learned trial Court is failed to apply the law as laid down by the Hon’ble Supreme Court.

21. After scrutinizing the facts and circumstances of the case within the parameters as laid down by the Hon’ble Supreme Court in the case

of **Rakesh Ranjan Shrivastava (Supra)**, this court reached on conclusion that the revision is liable to be allowed and the matter should be remanded back to pass a fresh order in accordance with law.

ORDER

22. Therefore, the revision preferred against the order dated 27.02.2026 passed by the Court of Additional Chief Judicial Magistrate, Court No. 5, Bareilly in Complaint Case No. 7112/2023 (Harprasad Vs. Akilesh Kumar) under Section 138 N.I. Act, Police Station-Kotwali, District-Bareilly, is hereby allowed as the order dated 27.02.2026 is set aside.
23. The matter is remanded back to the trial Court with direction to pass a fresh order in accordance with law after affording opportunity of hearing to both parties on the application for interim compensation moved by the respondent, under Section 143-A of N.I. Act.
24. Both parties are directed to remain present before the learned trial Court on 23.07.2026.
25. Office is directed to send the record to the trial court immediately along with the copy of the order.
26. Consign the record as per rules.

(Pradeep Kumar Singh-II)
(J.O. Code- U.P 1905)
Sessions Judge,
Bareilly

Dated: 08.07.2026

Judgment signed, dated and pronounced by me in open Court today.

(Pradeep Kumar Singh-II)
(J.O. Code- U.P 1905)
Sessions Judge,
Bareilly

Dated: 08.07.2026