

CN – 524 of 2023  
(Redg. No. CN – 524 of 2023)

Order dated :08.04.2024

*Today is fixed for hearing of petition u/s 143A of N.I Act dated 25.01.2024.*

*Accused persons on c/b are absent by a petition.*

*Ld. advocate on behalf of the complainant files a petition praying for condonation of absence of the complainant. Heard. Prayer is allowed.*

*Ld. Advocate for the complainant made submission regarding pending petition u/s 143A Of N.I. Act for seeking interim compensation since 25.01.2024 and made submission for hearing of the same.*

*The ld Advocate for the accused person made oral objection against the interim compensation petition.*

*Now , the record is taken up for hearing the petition u/s 143A Of N.I. Act.*

*Heard both sides in full.*

*Now , the record is taken up for hearing and passing order.*

*Perused the record.*

*Considered the material available and the submission made over by the learned Counsels for both sides.*

*The learned Counsel for the complainant made argument in support of his petition and submitted that , this case is a case under section 138 of Negotiable Instrument Act and as per the recent amendment in the act, complainant has made this petition as guaranteed by the act after the said amendment, w.e.f. dated 01.09.2018. for interim compensation during pendency of the trial.*

*On the contrary, the learned Counsel for the accused herein made submission and put stress upon speedy trial of this case instead of allowing such petition on the ground that same is not mandatory as per the act. Ld. Counsel for the accused has also made submission that the complainant/petitioner has not made any submission in this petition that in the case if accused herein is acquitted from this case the amount as received in lieu of interim compensation will be repaid by him. It was also argued that this petition for interim compensation has been devoid of any affidavit .*

*After considering the submission made over by the learned Counsels for both sides and meticulous perusal of the referred sections and the discussion above made , this court is of the opinion that the word ‘May’ as used in the section is beneficial for the complainant because the*

*Contd.....*

*complainant has already suffered as not payed by the accused, therefore, it is in the interest of the complainant as well the accused if the certain (the said maximum limit of 20%) part of the cheque amount is to be paid by the accused and in that case when the final judgment passed against him, he has to pay on lower side. The motto of the given section is to secures the interest of the complainant as well as of the accused and moreso, here the use of 'May' is as a matter of conventional courtesy and yet intend a mandatory force. Further, after having amendments in the act and having insertion of a new section being 143 A, complainant's act is well protected under the ambit of law. This court relied on the judgment which was decided by the Hon'ble Supreme Court in Smt. Bachahan Devi & Anr vs. Nagar Nigam, Gorakhpur & Anr and same was also relied on by the Hon'ble Chhattisgarh High Court in Rajesh Soni vs. Mukesh verma's case.*

*Thus, on the basis of above mentioned findings and discussions , the petition for interim compensation as made out by the complainant deserves to be allowed.*

*Hence , it is*

*Ordered*

*that the petition dated 25.01.2024 u/s. 143A of N.I. Act is allowed on contest.*

*Accordingly, accused no.1 (the said private company) namely Zyphyr Construction Pvt. Ltd. is directed to pay an amount of Rs.1,00,000/- (one lakh rupees) only to the complainant as interim compensation within 60 days from the date of this order i.d. complainant is at liberty to take recourse of law as available to him.*

*Complainant is hereby also directed by this court that in the event of acquittal of drawer of the cheque (the said accused herein) , complainant shall to repay the amount of interim compensation, with interest at the bank rate as published by the RBI, prevalent at the beginning of the relevant financial year.*

*Let a copy of this order be supplied to the complainant free of cost.*

*To 16/07/2024 for evidence and payment.*

*T/C by me:*

*Sd/-  
(Aditya Gunjan)  
Metropolitan Magistrate , 3<sup>rd</sup> Court,  
Calcutta.*