

CR 160 of 2019
Regn. No. 160 of 2019
CNR: WBHG06-000931-2019
J.O Code: WB01330

Order Dated 16.03.2022 :-

Today the parties have filed haziras.

The case record is taken up for hearing of the petition dated 08.01.2021.

It has been submitted by the Ld. Advocate appearing on behalf of the complainant that on 02-08-2018 Section 143A has been inserted in the N.I.Act and it empowers the Ld. Court to grant as interim compensation to be paid to the drawer when the accused pleads not guilty and such amount shall not be more than 20% of the claimed amount. By filing this instant petition it has been prayed before this Ld. Court to pass an order directing the accused to pay the interim compensation to the complainant as per provision of Sec. 143A of N.I Act.

The Ld. Advocate appearing on behalf of the accused verbally raised objection against the said petition. It has been moved that the instant complaint case has not been filed within the period of limitation as prescribed by the statute. Further the complainant in his complaint stated that the accused purchased electric goods from him and in discharge of his liability he issued the impugned cheque in favour of the complainant. But the complainant did not specifically mention the types of electric goods which were purchased from him by the accused person. Under such circumstances, the Ld. Advocate prayed for the rejection of the instant petition.

Heard and considered.

After going through the materials on record I am of the view that whether the instant complaint case is time barred or not and whether the complainant failed to specifically mention the nature of electric goods or not, these facts are required to be determined after conclusion of the trial and not at this interlocutory stage. However, it is to be taken into account that Section 143A of the Act was inserted in the statute book with effect from 01-09-2018. The Honorable Apex Court in the case of G.J. Raja v Tejraj Surana clearly held that Section 143A of the N.I.Act to be prospective in operation and the provisions of the said Section 143A can be applied or invoked only in cases where the offence under Section 138 of the Act was committed after the introduction of the said section 143A in the statute book.

Therefore after taking into account the facts and circumstances of the case it can be traced out that the instant complaint case has been filed on 29.05.2019 i.e. after introduction of Section 143A of N.I Act. Accordingly, the prayer of the complainant deserves to be allowed.

Hence, it is

ORDERED

that the same and the petition dt. 08.01.2021 is considered and allowed on contest but without any order as to costs.

The accused is directed to pay interim compensation of 10% of the impugned cheque amount to be paid to the complainant by the accused person within 60 days from the date of this order.

To **19.05.2022** for evidence (P.W.)

Typed by me

Judicial Magistrate,
2nd Court, Serampore

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