

297C/2022

Present before :- Esharul Haque, Judicial Magistrate, 2nd Court,

Uluberia, Howrah

J.O. Code :- WB01482

Order dated 18.08.2025

Today is fixed for order.

Both parties are present by filing hazira.

Now the record is taken up for passing order.

The contention of the instant petition dated 01.12.2023 is that the complainant filed the present case against the accused under the Negotiable Instruments Act (herein after referred to as NI Act) in respect of the cheque amounting to Rs. 3,00,000/-. As per the provision of section 143A of the NI Act, the accused has to pay 20% of the cheque amount to the complainant as interim compensation within 60 days of passing the order.

The complainant, therefore, prayed for 20% of the cheque amount as interim compensation from the accused person.

The Ld. Advocate for the complainant at the time of hearing submitted that the complainant is entitled to the interim compensation as prayed for.

The Ld. Advocate for the accused person raised strong objection on the ground that he has given a blank cheque to another person but the complainant filed these case by filing up the cheque. It is also submitted that there is an agreement with regard to Rs 1,00,000/- to another person but not with the complainant. Hence complainant at this stage is not entitled to the relief as prayed for. The provision u/s 143A of the NI Act is not mandatory.

Heard. Considered.

Perused the materials available on the record.

Section 143A of the NI Act says:

“143A. Power to direct interim compensation.-- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant--

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial years, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section”

In the present case, the accused person has pleaded not guilty. From the record it appears that the instant case has been filed for dishonour of four cheques on the ground of fund insufficient. On perusal of the documents, a *prima facie* case is found against the accused persons at the stage. However, this document cannot be considered at this stage as the trial of this case has not yet initiated and the instant case is at pretrial stage.

Thus, from the materials available on the record, *prima facie* case of the complainant u/s 138, NI Act is established. The accused did not show anything so that the provision of section 138 of the NI Act would not applicable here.

Hence, it is

ORDERED.

that the instant petition dated 01.12.2023 filed by the complainant is hereby allowed on contest but without costs.

The accused person namely, Sudipta Maji is hereby directed to pay 10% of the concerned cheques amount i.e. in total Rs.3,00,000/-, i.e. Rs.30,000/- within sixty days from the date of the order.

If the accused person does not pay the said amount within the prescribed time, the complainant shall be entitled to execute this order as per section 143A(5) of the NI Act.

If the accused person is acquitted from this case after trial, the complainant shall repay the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial years, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

To for evidence and payment.

Dictated & corrected by me.

Judicial Magistrate, 2nd Court
Uluberia, Howrah

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