

C. Case no.674 of 2019

Order dt. 20.07.2023

Today is fixed for hearing of the petition us. 143(a) N.I. Act.

Complainant files hazira.

Accused is us. 317 CrPC.

Case record is taken up for passing order in respect of the petition us. 143(a) N.I. Act.

By filing the instant petition u/s.143(a) N.I Act learned advocate for the complainant seek necessary direction upon the accused person to deposit 20% of the cheque amount. Drawing my attention to the date of filing learned advocate for the complainant further submits that since the lapse of four(4) years instant case could not be disposed of and the present complainant could not be given the desired relief. It is further submitted that complainant lady recently has become a mother and has to bear huge expenses for upbringing of her child.

On the other hand learned advocate for the accused raised strong objection against the said [prayer of the complainant submitting that the said provision as envisaged in section 143-A of N.I.Act is not mandatory in nature. It is further stated that this accused filed on complaint against the present complainant. It is also avert that the present complainant took three blank cheques from this accused. Admitting the loan to the tune of Rs. 4 lakhs from the complainant. Ld. Advocate for the accused submits that out of the said loan amount Rs. 2.5 lakh has already been paid.

Perused the case record. Considered.

It appears that instant case was filed on 12.06.2019 and no relief could be given to the complainant yet. During the course of hearing ld. Advocate for the accused did not produced the receipt of Rs. 2.5 lakh which has already been

paid by this accused as claimed on her behalf. Section 143-A of N.I Act authorizes Magistrate trying an offence under section 138 of Negotiable Instrument Act to exercise discretion to give direction upon the drawer of the cheque to pay interim compensation to the complainant up to 20% of the cheque amount within sixty days which is refundable with the interest of bank rate on the occasion of acquittal of the accused.

In Jisha vs. State of Kerala it was held that the word 'may' have the impact of 'shall' since the prosecution launched under section 142 NI Act can not be identified as scrupulous or unscrupulous ones at the preliminary stage when the complaint is filed .On the other hand , in the present case accused failed to bring sufficient reason why the said interim prayer should not be allowed or why the accused would be prejudiced if such prayer is allowed.

Accordingly, prayer of the complainant for interim compensation is allowed on contest. Accused is directed to deposit the Rs. 71,119/-/- ie 20% of the claimed amount of Rs.3,55,597/-(cheque amount) at judicial cash with in sixty days subject to be refundable by the complainant to the accused with interest at bank rate on acquittal of the accused and submit compliance report by the next day.

Fix 22.09.2023 for compliance report and evidence.

D/C by me;

Judicial Magistrate,
Bidhannagar