

C. Case No. 273/22
JO Code WB 01288

Order Dated 23.10.24

Today is fixed for order.

Both party files hazira.

The matter is now taken up for passing order.

Complainant of this case has filed a petition u/s 143A of NI Act, asking a dircetion upon the accused to submit interim compensation to the tune of Rs. 1,90,000/- i.e. 20% of the cheque amount. Copy served. Objection raised.

Ld. Advocate of the accused at the time of hearing raised objection in respect of the petition and submitted that the power U/s 143A NI Act is discretionary in nature as there is an use of word "May" in the section itself. Ld. Advocate further submitted case references such as Dharm Pal Vs. Omprakash CRM 49965/21 and another Rakesh Ranjan Srivastava Vs State of Jharkhand and Anr 2024(1) DCR 625. In these cases Hon'ble Court has been pleased to held that section 143A NI Act, is not mandatory rather it is a directory in nature. Ld. Advocate further pointed out that in this case there is no necessity of any direction upon the accused U/s 143A NI Act as such the present petition has been filed only to harass the accused.

Ld. Advocate of the complainant in reply stated that if the direction of submitting 20% of the cheque amount is given against the accused then there will be no injustice, as if the case is proved otherwise then complainant shall be bound to refund the said amount to the accused after conclusion of trial.

Heard the submission of both sides.

Perused the materials on record.

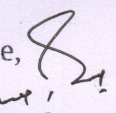
It is important to note here that there is no confusion regarding the fact that the power U/s 143A is a directory/discretionary in nature. Further more if any such direction of submitting 20% of the cheque amount is passed in favour of the complainant of this case, then in my opinion accused will not suffer as if the complainant fails to prove the allegations against the accused, then he shall be liable to refund the said amount to the accused and hence, if in this case such direction is passed, then accused of this present case shall also not suffer.

Accordingly in the light of above discussion I am inclined to allow the prayer of the complainant.

Hence, it is ordered, that the petition filed by the complainant U/s 143A NI Act, is considered and allowed on contest.

Accused is directed to submit 20% of the cheque amount to the compaiinant on the next date fixed.

To 04.06.25 for submitting 20% of the cheque amount and Evidence.

D/C by me, 
JM 5th Barrackpore.

Judicial Magistrate
5th Court Barrackpore
North 24 Parganas