

C 598/22

Nitu Agarwal v. Md. Sayed Mafuji Ali

**Order dated : 15.06.2024**

Today is fixed for order with respect to petition filed by the complainant u/s 143A of the N.I Act.

Complainant files hazira.

Accused is absent by petition under Section 317 CrPC.

Heard both sides on last occasion.

The record is taken up for passing order.

By filling the instant petition Ld advocate for the complainant/ petitioner submits that the instant case was filed on 13.09.2022 before the Ld ACJM Barrackpore and thereafter the same was transferred to this Court. The accused has surrendered and pleaded non guilty and hence the Complainant/ petitioner has prayed for interim Compensation of 20% to the tune of the cheque amount in favour of the Complainant.

Ld advocate for the accused has verbally objected to the present petition and prayed for rejection of the petition.

Heard and considered.

**Section 143A of N.I. Act** provides that

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence u/s.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 complainant ; and

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

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

(3) The interim compensation shall be paid within sixty days from the date of the order under sub sec(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 year 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 show by the complainant.

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

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

This amendment of NI Act came into force with effect from 1.9.18, the purport of the amendment is that the court may in certain circumstances, award interim compensation which shall not exceed 20% of the amount of the cheque. And such interim compensation can be permitted to be withdrawn in terms of the said amendment in the event of court directs deposit of the amount as interim compensation in terms of section 143A, it is recoverable by initiating proceedings under section 421 of the CrPC. One of the purpose of the amendment is because of

delay tactics of the unscrupulous drawers of dishonour cheque. The injustice cost the payee of a dishonored cheque had to be considered. Thus, while exercising the discretionary power in dealing with an application u/s.143 A of the NI Act the conduct of the accused has to be considered.

In the instant case was filed on 13.09.2022. Thereafter process was issued against the accused person on 21.12.2022 and the same was returned with remarks item delivery confirmed. Thereafter the accused surrendered on 11.04.2023 and prayed for bail. The accused was finally examined u/s 251 on 24.08.2023. Thereafter, the accused has taken time on one occasion. As the case is very early stage of trial and the accused tried to delay the case on one occasion after examination u/s.251 and keeping in mind the objectives of introducing the section I am of the view that interim compensation of 5% should be awarded in favour of the complainant.

Hence it is

**ORDERED**

that the petition under hearing is allowed on contest.

***The accused are hereby directed to deposit Rs.6145/- i.e. 5% of the cheque amount before the court within 60 days from the date of this order failing of which the same shall be recovered as per sec.421 of CrPC.***

It is further ordered that if after completion of trial the accused person is acquitted then the complainant / petitioner shall be bound to repay the aforesaid amount with interest at the bank rate as published by Reserve Bank of India, prevalent at the beginning of the relevant financial year withing sixty days from the date of order of acquittal.

Thus the petition is hereby disposed off.

**To 27.11.2024 for evidence.**

**Typed & Printed by me,**

(Pratigya Pradhan)  
J.M, 3<sup>rd</sup> Court, Barrackpore

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