

**Present : Sumana Garain (WB 01068)**

**A.C.J.M.-cum- Civil Judge (Senior Division), Kakdwip**

**C R 78/2020**

**Regd No. 78/20**

**( J.O. Code-WB01068 )**

**Order dated 07-03-2024**

The complainant is present by filing hazira. Though O.P. is absent by filing adjournment petition.

Today was fixed for hearing the petition u/s 143A of NI Act filed by the complainant on 03.09.2022.

Heard both sides.

On perusal of the case record it appears that the accused has taken several dates for filing W.O. but no such W.O is filed.

Considering the conduct of the accused, the adjournment petition is hereby rejected.

I am inclined to pass an order of the petition u/s 143 A of NI Act.

Heard. Perused the petition and materials on record.

This case is filed by the complainant against the accused for dishonour of cheque amounting to Rs. 10,00,000/- being No. 241402, dated 31.12.2019 drawn on State Bank of India, Kakdwip Branch. Said cheque was dishonoured due to funds insufficient. After a demand notice was sent to the accused dated 06.03.2020 but the accused did not repay the loan amount.

The accused appeared in this case and was examined by this court on 03.09.2022 where he pleaded not guilty.

The complainant has filed this petition u/s 143A of NI Act on 03.09.2022 for interim compensation to the tune of 20% of the cheque amount i.e. Rs. 10,00,000/-.

In *Rajesh Soni V. Mukesh Verma* { 2021(7) TMR 386- Chhattisgarh High Court } it was held by Hon'ble High Court in the present case that granting of 20% compensation u/s 143A of the NI Act 1881 is totally valid as the said provision is not discretionary in nature. The Hon'ble Court was pleased to observed that the word 'may' be treated as 'shall' and it is not discretionary but of directory.

In the light of the above observation I am inclined to allow the petition of the complainant u/s 143A of NI Act, dated 03.09.2022.

The accused Debesh Mitra is directed to pay to the complainant 20% of the cheque amounting Rs. 10,00,000/- being No. 241402, dated 31.12.2019 drawn on State Bank of India, Kakdwip Branch within 60 days from this date of order failing which the complainant is entitled to recover the same as provision of 143A (5) of NI Act.

To 19.06.2024 for evidence.

D/C by me.

Sd/-

Sd/-

ACJM-cum-CJSD, Kakdwip

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