

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) 185/2026 CrIM(451/2026)

Reserved On: 15.04.2026

Pronounced On: 20.04.2026

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Whether the Operative part or
full judgment is pronounced: **Full**

Nargees Javaid, Aged 40 years ...Petitioner
W/o Bilal Ahmad Bakshi
R/o Bellow Dargund
Tehsil Rajpora District Pulwama

Through: Mr. Mudasir bin Hassan, Advocate
Vs.
Ghulam Jeelani Nengroo ...Respondent
S/o Mohammad Anwar Nengroo
R/o Prichoo, Tehsil and District
Pulwama
Through:

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE
JUDGEMENT
20.04.2026

BRIEF FACTS:

1. The petitioner has invoked the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, calling in question the order dated 16.03.2026 passed by the Court of Learned Special Mobile Magistrate, Pulwama, whereby an application filed by the respondent under Section 143-A of the Negotiable Instruments Act, 1881 has been allowed.
2. Briefly stated, the respondent had instituted a complaint against the petitioner under Sections 138 and 142 of the Negotiable Instruments Act, alleging dishonor of several cheques purportedly issued by the petitioner in discharge of a legally enforceable liability.

3. The cheques, as detailed in the complaint, include cheque Nos. 209524 (₹5,00,000/-), 209525 (₹5,00,000/-), 209526 (₹3,00,000/-), 209527 (₹4,00,000/-), 209528 (₹8,00,000/-), 209529 (₹5,00,000/-), 209530 (₹5,00,000/-), 209531 (₹6,00,000/-), 209532 (₹3,00,000/-), 209536 (₹5,00,000/-) and 209540 (₹6,00,000/-, all stated to have been issued in favour of the respondent.
4. Upon presentation, the cheques were dishonored, thereafter the complaint came to be filed before the trial Court. The petitioner, upon being summoned, appeared before the trial Court and the substance of accusation was put to her in terms of Section 251 of the Code of Criminal Procedure (now Section 274 of the Bharatiya Nagarik Suraksha Sanhita). The petitioner, at that stage, categorically denied the issuance of the cheques and specifically pleaded that she is not a signatory thereto.
5. During the pendency of the proceedings, the respondent filed an application under Section 143-A of the Negotiable Instruments Act seeking interim compensation.
6. The Learned Special Mobile Magistrate, Pulwama, however, vide order dated 16.03.2026, allowed the application and directed payment of 10% of cheque amount as interim compensation.
7. Aggrieved thereof, the petitioner has filed the present petition, primarily on the ground that the impugned order reflects non-application of mind, inasmuch as the trial Court has failed to consider the specific defence raised by the petitioner regarding denial of signatures and the request for forensic examination, and has proceeded to pass the order in a routine manner without appreciating the scope and object of Section 143-A of the Negotiable Instruments Act.

SUBMISSIONS ON BEHALF OF PETITIONER

8. Learned counsel on behalf of petitioner submits that the order passed by the Learned Special Mobile Magistrate, Pulwama, has failed to consider the relevant material on record and has ignored the settled legal position governing the field. The power under Section 143-A of the Negotiable Instruments Act is discretionary in nature and is required to be exercised judiciously on a case-to-case basis. The object of the provision is to address delay in disposal of cheque dishonour cases, and not to mechanically grant interim compensation. The impugned order, having been passed in an arbitrary and mechanical manner, is liable to be set aside.
9. It is further submitted that there has been a noticeable rise in frivolous and vexatious complaints filed with ulterior motives to harass the accused. In such circumstances, directing payment of interim compensation at a premature stage causes serious prejudice to the accused. In the event of acquittal, the accused faces substantial difficulty in recovering the amount so paid, as the Negotiable Instruments Act does not provide an effective mechanism for restitution. Though Section 143-A(4) contemplates repayment, the mode of recovery under Section 421 CrPC (now Section 462 BNSS) is cumbersome and often ineffective, particularly where the complainant lacks sufficient means. On this ground also, the impugned order deserves to be quashed.
10. It is submitted that although Section 139 of the Negotiable Instruments Act raises a presumption in favour of the holder of the cheque, the same is rebuttable. Where the very execution of the cheque is denied, as in the present case, the burden shifts upon the complainant to establish the genuineness of the signatures. The Learned Trial Court has failed to

appreciate this crucial aspect and has proceeded to grant interim compensation without proper enquiry.

11.It is further submitted that the power to grant interim compensation is not mandatory but discretionary, to be exercised sparingly and upon due consideration of the facts and circumstances of each case. The Learned Trial Court has misappreciated the facts and evidence on record and has failed to record any cogent reasons justifying the grant of interim compensation. The absence of reasons vitiates the impugned order and renders the same liable to be set aside.

12.It is submitted that the petitioner has at no point attempted to delay the proceedings or evade the process of law. On the contrary, the petitioner has cooperated with the trial proceedings in a bona fide manner. The petitioner has categorically denied issuance of the cheques in her statement recorded under Section 251 CrPC (now Section 274 BNSS), thereby raising a plausible and legally tenable defense. In such circumstances, the Learned Trial Court ought to have exercised restraint in granting interim compensation. The impugned order, therefore, is liable to be quashed.

13.It is finally submitted that the impugned order is devoid of reasons, particularly with regard to the quantum of interim compensation awarded at the rate of 10% of the cheque amount. The Learned Trial Court has failed to indicate any basis for determining such quantum. In the absence of any such reasoning the counsel argues that the impugned order is rendered unsustainable in law

LEGAL ANALYSIS:

14.Heard and considered.

15. For a proper appreciation of the submissions advanced by learned counsel, it is essential to meticulously examine the scope and import of Section 143A of the Negotiable Instruments Act, 1881. For the sake of convenience and ready reference, the statutory provision is reproduced as under:

“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 subsection (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 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.”

16. A plain reading of Section 143A of the Negotiable Instruments Act, 1881 makes it clear that the legislature has empowered the Court trying an offence under Section 138 of the Negotiable Instruments Act to award interim compensation to the complainant at a preliminary stage of the proceedings.

Such power can be exercised in a summary trial or summons case when the accused pleads not guilty, and in any other case upon the framing of charge.

The provision thus contemplates grant of compensation even before the conclusion of trial, with a view to address delay and provide immediate relief.

17. It is further evident that the use of the expression “*may*” in sub-section (1) confers a discretionary power upon the Court, meaning thereby that the grant of interim compensation is not automatic or mandatory in every case. The Court is required to exercise such discretion judiciously, upon consideration of the facts and circumstances of each case, and not in a mechanical manner.

18. A holistic reading of Section 143A demonstrates that while the provision is intended to afford interim relief to the complainant, it equally incorporates safeguards to prevent undue prejudice to the accused, and vests a controlled discretion in the Court to be exercised on sound judicial principles.

19. Coming to the impugned order, it is evident that the learned Special Mobile Magistrate, Pulwama has failed to record any cogent reasons while allowing the application. The scheme of Section 143A of the Negotiable Instruments Act, 1881 mandates that before directing payment of interim compensation, the Court must *prima facie* evaluate the case set up by the complainant as well as the defense raised by the accused in response to the application.

20. A direction to pay interim compensation cannot be issued in a routine or mechanical manner; it must be founded upon a *prima facie* satisfaction that the complainant has made out a case warranting such relief. In the present case, however, the learned Magistrate has neither undertaken any such evaluation nor assigned reasons as to why interim compensation to the extent of 10% of the cheque amount has been granted.

21. A perusal of the impugned order reveals that the learned Magistrate has made a cursory reference to the statutory provision, observing that the Court

is empowered to grant interim compensation up to 20% of the cheque amount upon recording the plea of not guilty. However, the order is conspicuously silent with regard to any application of mind to the facts of the case, and does not disclose the basis on which interim compensation to the extent of 10% has been quantified.

22. The reasoning assigned in the impugned order merely reiterates the statutory position concerning the presumption and the stage at which such power may be exercised, but falls short of reflecting any independent judicial assessment. Such an approach vitiates the impugned order and renders it unsustainable in law.

23. The impugned order is in the teeth of the settled position of law as laid down by the Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava v. State of Jharkhand reported as (2024) 4 SCC 419**, in which the Hon'ble Supreme Court has held as under:

“a. The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not mandatory. The word "may" used in the provision cannot be construed as "shall."

b. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.

c. The broad parameters for exercising the discretion under Section 143A are as follows:

i. The Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application. The financial distress of the accused can also be a consideration.

ii. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.

iii. If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.

iv. If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of

interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc. v. There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.”

24. A plain reading of the judgement supra makes it clear that while adjudicating an application under Section 143A of the Negotiable Instruments Act, 1881, the Magistrate is required to record reasons while directing payment of interim compensation. It has been clarified by the Hon'ble Apex Court that the power under the said provision is discretionary in nature and cannot be exercised in a routine or mechanical manner.

25. However, in the instant case in clear departure from the settled position of law, the learned Magistrate has neither recorded any reasons nor reflected due application of mind to the facts and circumstances of the case, as mandated under Section 143A of the Negotiable Instruments Act, 1881. The impugned order is completely silent on any prima facie evaluation of the case prior to directing the payment of interim compensation.

26. The impugned order is further vitiated on account of absence of cogent reasons, inasmuch as it fails to indicate any basis for awarding 10% of the cheque amount as interim compensation. A plain reading of Section 143A of the Negotiable Instruments Act, 1881 makes it evident that the quantum of interim compensation is not fixed and may extend up to 20% of the cheque amount. This necessarily entails that the Court is required to exercise its discretion judiciously, having regard to the facts and circumstances of each case. Where the statute permits a range from 1 up to 20%, the determination of any particular figure, such as 10%, must be supported by clear and

reasoned justification. In the absence of such reasoning, the impugned order cannot be sustained in law.

27. This Court in CRM(M) No. 50/2020 titled as **Nazir Ahmad Chopan vs Abdul Rehman Chopan**, decided on 23.12.2022, has held as under:

“Although no guidelines for grant of interim compensation have been laid down in Section 143-A of the NI Act, yet it is a settled law that whenever a discretionary power is to be exercised by a Court, the same has to be exercised on well-recognized principles supported by reasons. The Court has to spell out the reasons for grant of interim compensation in favour of the complainant and it has also to justify in its order with reasons the quantum of interim compensation that is being awarded by it, as the said quantum can vary from 1% to 20% of the cheque amount.”

28. In the judgement supra this Court has held that the discretionary power under Section 143A must be exercised on well-recognized principles and duly supported by reasons and Court has to spell out the reasons for grant of interim compensation in favour of the complainant and it has also to justify in its order with reasons the quantum of interim compensation that is being awarded by it, as the said quantum can vary from 1% to 20% of the cheque amount.

CONCLUSION

29. In view of the foregoing discussion, the impugned order dated 16.03.2026 passed by the learned Special Mobile Magistrate, Pulwama is hereby quashed with a direction to learned Special Mobile Magistrate, Pulwama to pass a fresh order expeditiously in the light of observations made hereinabove and, in the event of being inclined to grant interim compensation, shall record reasons indicating consideration to all relevant factors.

30.It is, however, made clear that the observations recorded herein are confined to the disposal of the present petition and shall not be construed as an expression of opinion on the merits of the case.

31.Both the parties are directed to appear before the learned Special Mobile Magistrate, Pulwama on 27th April, 2026.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
20-04-2026
Mubashir

- i. Whether the order is reportable: Yes
Whether the order is speaking: Yes