

Court No. - 86

Case :- APPLICATION U/S 482 No. - 36925 of 2023

Applicant :- Ankit Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Jagdish Prasad Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The present application under Section 482 Cr.P.C. has been filed with the prayer to quash impugned order dated 08.05.2023 passed by Special Judge (N.I. Act), Muzaffar Nagar in Complaint Case No. 3045 of 2022 (Manjyoti Vs. Ankit Kumar), under Section 138 of N.I. Act, Police Station Nai Mandi, District Muzaffar Nagar, by which, in exercise of power under Section 143A of NI Act, the court below has directed the accused to deposit 20% of the cheque amount as interim compensation within 60 days from 08.05.2023.

3. Learned counsel for the applicant has submitted that the impugned order dated 08.05.2023 directing the applicant to deposit 20% of the cheque amount to the opposite party no.2, as interim compensation, has been passed without assigning any reason and therefore, the said order is bad in law and is liable to be set aside.

4. Per contra, learned AGA has vehemently opposed the said prayer and has supported the impugned order. He has drawn the attention of the Court to the provisions contained in Section 143A of the N.I. Act, which provides:

143A. Power to direct interim compensation.

143A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under Section 138 of N.I. Act 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.

5. In the light of the said provision, learned AGA has

submitted that two cheques, i.e. (i) cheque no. 745119 dated 01.02.2022 for a sum of Rs.2,50,000/- and (ii) cheque no. 745116 dated 10.02.2022 for a sum of Rs.2,50,000/- were issued by the applicant in favour of opposite party no.2 and the proceedings are still pending before the trial court and upon appearance of the accused, the court below has recorded the plea of the accused and in his statement of accusation, the accused has abjured his guilt and claimed to be tried and only after the said stage, where the accused has not pleaded guilty, the learned Magistrate has directed for payment of interim compensation and which too has not exceeded 20% of the cheque amount.

6. Learned AGA has further submitted that trial is still in progress and therefore, in the backdrop of the said circumstances, the impugned order dated 08.05.2023 passed by the trial court directing for payment of 20% of the cheque amount to the opposite party no.2, as interim compensation, is well within his competence and do not suffer from any illegality or impropriety and as such, the present application under Section 482 Cr.P.C. is liable to be dismissed.

7. Having considered the rival submissions made by learned counsel for the parties and taking into consideration the provisions contained in Section 143A of N.I. Act, where the applicant has not pleaded guilty and claim to be tried, then in the given circumstances, as discussed above, learned Magistrate is well within his competence to grant 20% of the cheque amount as interim compensation, however, the said provision can not be said to be an absolute rule and taking into consideration the given facts and circumstances, the said amount may be reduced.

8. In view of the above, the impugned order dated 08.05.2023 passed by the trial court is modified to the extent that accused-applicant shall deposit 15% of the cheque amount as interim compensation to the opposite party no.2 within three weeks from the date of this order.

9. In case of default, the said order shall not be given effect to, and the court below shall proceed to get the amount recovered from the applicant in accordance with law.

10. With the aforesaid observations, the present application under Section 482 Cr.P.C. is finally **disposed of**.

Order Date :- 13.10.2023/Nadim