

GAHC040013872024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(Crl)/84/2024

Nilotpal Das and 2 Ors
Son of Gopal Chandra Das, C/o Director, Finsperity Limited, resident of House No.
68 L, Graham Road Tollygung, Kolkata 700040

2: Mrinmoy Das
Age:
Occupation :
Son of Shri Subhash Chandra Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road Tollygung
Kolkata 700040

3: Smti Dalia Das
Age:
Occupation :
Wife of Nilotpal Das
C/o Director
Finsperity Limited
resident of House No. 68 L
Graham Road Tollygung
Kolkata 70004

VERSUS

Khoda Gyati
proprietor of M/s Amar Construction, resident of House No. IMC 651, Vivek Vihar,
DN College Road, Itanagar, District Papumpare, Arunachal Pradesh.

Advocate for the Petitioner : V. Jamoh,

Advocate for the Respondent : Habung Aape,

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 22.10.2024

Heard Mr. V. Jamoh, learned counsel for the applicant. Also heard Mr. H. Aape, learned counsel for the opposite side.

The present application is filed for stay of the operation of order dated 25.09.2024, passed by the learned Judicial Magistrate First Class, Capital Complex, Arunachal Pradesh.

The connected criminal revision petition No. 17(AP)/2024 is filed assailing the order dated 15.07.2024, passed by the learned Judicial Magistrate First Class, Yupia, Arunachal Pradesh in CR Case No. 29/2023 convicting the petitioner under Section 138 of Negotiable Instrument Act, 1881 and awarding compensation (interest) of an amount of Rs. 5,00,000/- (Rupees Five Lakhs) to the petitioner inasmuch as during the proceeding, the petitioner had admittedly paid a cheque amount, which was dishonored.

The learned counsel for the petitioner argues that in terms of Section 138 of the Negotiable Instrument Act, the Magistrate is not conferred with any jurisdiction to award interest, though, it is empowered to pay compensation

with an outer limit of a sum twice the amount of the cheque.

Countering such argument, the learned counsel for the respondent argues that though the cheque amount is paid, the petitioner has not paid the interest amount inasmuch as a Magistrate is competent to compensate the petitioner and the application of the word 'interest' shall not change the character of the compensation.

This matter needs further consideration.

Considering that the cheque amount has been already paid and what remains to be paid is an amount of Rs. 5,00,000/- (Rupees Five lakhs), this Court is of the view that till the final consideration of the connected criminal revision petition, the impugned judgment dated 15.07.2024, passed in C.R. Case No. 29/2023 shall not be executed. Ordered accordingly.

With the above observation, the I.A. stands disposed of.

JUDGE

Comparing Assistant