

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc. Application No. 1282 of 2026

Tej Singh.

.....Applicant

Versus

Sohan Singh.

.....Respondent.

Present: Mr. Deepak Petshali, learned counsel for the applicant.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant petition has been preferred by the applicant Tej Singh under Section 528 of the Bhartiya Nagarik Suraksha Sahita, 2023 challenging the order passed by the learned Judicial Magistrate, Laksar, District Haridwar in Complaint Case No. 252 of 2021 whereby the applicant was directed to pay an amount of Rs. 30,000/- which is 10% of the amount as shown in the cheque to the complainant within 60 days in terms of Section 143-A of Negotiable Instruments Act.

2. It is argued by the learned counsel for the applicant that the cheque in question on the basis of which the respondent filed a complaint under Section 138 of N I Act was prior to the date of insertion of Section 143-A of the NI Act which was inserted by virtue of Act No. 20 of 2018 w.e.f 01.09.2018 and will not apply in reference to the cheque issued prior to date of the insertion.

3. I have gone through with the order as well as Section 143-A of NI Act. Section 143-A of NI Act is produced herein asunder:-

4. "143-A. Power to direct interim compensation - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1794) the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—

5. (a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

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

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



8. (3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (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.

9. (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.

10. (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).

11. (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."

4. Admittedly this provision was inserted by Amendment Act No. 20 of 2018 w.e.f. 01.09.2018.

5. Learned counsel for the applicant placed reliance of a judgment of Hon'ble Apex Court in the case of *G.J.Raja Vs. Tejraj Surana (2019) 19 SCC 469* and by placing reliance to this judgment it is argued that the Apex Court held that the applicability of Section 143-A of NI Act is held to be prospective in nature and confined to cases where offences were committed after the introduction of Section 143-A, in order to force an accused to pay such interim compensation.

6. I have gone through with the judgment wherein the Hon'ble Apex Court discussed the issue of insertion which is reflected from para-17 of the judgment which also read as under:-

"17 The provisions contained in Section 143A have two dimensions. First, the Section creates a liability in that an accused can be ordered to pay over upto 20% of the cheque amount to the complainant. Such an order can be passed while the complaint is not yet adjudicated upon and the guilt of the accused has not yet been determined. Secondly, it makes available the machinery for recovery, as if the interim compensation were arrears of land revenue. Thus, it not only creates a new disability or an obligation but also exposes the accused to coercive methods of recovery of



such interim compensation through the machinery of the State as if the interim compensation represented arrears of land revenue. The coercive methods could also, as is evident from provision like Section 183 of the Maharashtra Land Revenue Code, in some cases result in arrest and detention of the accused.

7. In para-20, a further reference of another judgment in the case of Anil Kumar Goel Vs. Kishan Chand Kaura (2007) 13 SCC 492 is made and the relevant paragraph i.e. para-10 of the said judgment is also reproduced in para- 20 which also read as under :-

“20 Though arising in somewhat different context, proviso to Section 142(b) which was inserted in the Act by Amendment Act 55 of 2002, under which cognizance could now be taken even in respect of a complaint filed beyond the period prescribed under Section 142(b) of the Act, was held to be prospective by this Court in Anil Kumar Goel v. Kishan Chand Kaura⁵. It was observed:-

“10. There is nothing in the amendment made to Section 142(b) by Act 55 of 2002 that the same was intended to operate retrospectively. In fact that was not even the stand of the respondent. Obviously, when the complaint was filed on 28-11- 1998, the respondent could not have foreseen that in future any amendment providing for extending the period of limitation on sufficient cause being shown would be enacted.”

8. After gone through with the judgment particularly the observation as recorded in para 20, based on the earlier precedent i.e. in the case of Anil Kumar Goel (supra) it is clear that it is not undisputed that Section 143-A of NI Act is prospective in nature which means that it is applicable to the complaint filed on or after insertion of Section 143-A of NI Act. Even on close scrutiny of Section 143-A of NI Act the trial court which trying an offence under Section 138 may direct to pay interim compensation. As observed in para-20 of the aforesaid judgment Section 143-A will apply to the proceeding filed on or after insertion of Section 143-A of the NI Act.

9. In the present case no doubt the cheque in question were issued prior to the date of insertion of Section 143-A of NI Act but the fact remains the complaint was filed under Section 138 of NI Act on 02.01.2019 which is evident from Annexure-1 and since Section 143-A of NI Act was inserted on 01.09.2018, therefore the said provision is fully applicable since the



complaint was filed after the date of insertion. Thus in view of the discussion as above, I do not find any merit in the instant petition and the same is accordingly dismissed.

(Rakesh Thapliyal, J.)

16.06.2026

Nahid