

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

26 CRIMINAL WRIT PETITION NO.600 OF 2019

Shivram s/o Kondaji Sathe,
Age : - 56 years, Occu. Agril.,
Shrirampur, Tq. Shrirampur,
District Ahmednagar.

... PETITIONER
Orig. Accused

VERSUS

Gangadhar s/o Mhalu Katore
Died through his L.Rs.

1. Kakasaheb s/o Gangadhar Katore,
Age : 53 years, Occu. Agril.,
2. Appasaheb s/o Gangadhar Katore,
Age 55 years, Occu. Agril.,
3. Balasaheb s/o Gangadhar Katore,
Age 50 years, Occu. Agril.,
4. Sitabai Gangadhar Katore,
Age 44 years, Occu. Agril.,

All r/o Nimgaon – Korhale,
Tq. Rahata, Dist. Ahmednagar.

... RESPONDENTS

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Advocate for Petitioner : Mr. Sagade B.G.

Advocate for Respondents : Mr. Gandhi Amol S. and Mr. P.P. Mandlik

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CORAM : MANGESH S. PATIL, J.

DATE : 18.09.2019

JUDGMENT :

Heard.

2. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

3. Being a complaint filed in the year 2016 under Section 138 of the Negotiable Instruments Act, the respondent complainant filed an application (Exh.19) seeking compensation under the newly inserted Section 143-A of the Negotiable Instruments Act. By the impugned order, the learned Magistrate acceded to the request and directed the petitioner accused to deposit 20% of the cheque amount as an interim compensation. Hence this writ petition.

4. The learned advocate for the petitioner submits that the law is now well settled in the form of decision of the Supreme Court in case of **G.J. Raja Vs. Tejraj Surana; 2019 (10) SCALE 168**, wherein, it has been specifically laid down that the provision of Section 143-A is prospective in operation and is applicable only to the offences committed under Section 138 of the Negotiable Instruments Act after that Section was introduced in the Statute Book. Therefore, the order giving operation to the provision retrospectively is illegal and may be quashed and set aside.

5. The learned advocate for the respondent opposes the petition saying that there is no apparent illegality committed by the learned Magistrate.

6. I have carefully gone through the impugned order as well as the decision in the case of G.J. Raja (supra). The issue is no longer *res integra* and has been emphatically decided by the Supreme Court in the case of G.J. Raja (supra). The provision of Section 143-A of the Negotiable Instruments Act can only be applied prospectively, in respect of the offences committed after that Section was inserted in the statute with effect from 02.08.2018. When admittedly the present complaint was filed prior to such amendment, the respondent complainant cannot take its benefit. The impugned order therefore cannot stand the scrutiny of law and is liable to be quashed and set aside.

7. The writ petition is allowed. The impugned order is quashed and set aside.

8. The Rule is accordingly made absolute.

(MANGESH S. PATIL, J.)