

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116)

CRM-M-32093 of 2019 (O&M)

Date of Decision: 10.12.2019

Mandeep Kumar

...Petitioner

Versus

The Kurukshetra Central Coop. Bank Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Davneet Sangwan, Advocate,
for Mr. Anshul Mangla, Advocate, for the petitioner.
Mr. Satbir Mor, Advocate, for the respondent.

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner challenges the order of the learned trial court (JMIC, Kurukshetra), dated 24.04.2019 (copy Annexure P-3), by a part of which the petitioner, i.e. the accused in the proceedings initiated by the respondent herein under the provisions of Section 138 of the Negotiable Instruments Act, 1881, has been directed to pay 20% of the amount of the cheque in question, i.e. Rs.20, 000/-, within a period of 60 days of the date of the order, failing which it was ordered to be recovered as if it were a fine imposed upon the petitioner under Section 421 of the Cr.P.C.

On the date that notice of motion was issued in this petition, learned counsel for the petitioner had relied upon a judgment of the Supreme Court in **G.J. Raja v. Tejraj Surana** (passed in Criminal Appeal no.1160 of 2019, decided on 30.07.2019), wherein it was held as follows:-

“In our view, the applicability of Section 143-A of the Act must, therefore, be 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.”

In view of the above, the operation of the impugned order, to the extent that it directed payment of 20% of the amount of the cheque in question, had been stayed.

Thereafter, strangely even process fee not having been filed by the petitioner, the matter was adjourned to 05.11.2019, with the interim order still continued, obviously, in view of what has been held in the aforesaid judgment.

After that adjournments were sought by one side or the other. It has come up for hearing today, with again learned counsel appearing for the petitioner having made a request for an adjournment, which obviously cannot be granted in view of the order passed on the last date of hearing.

Learned counsel for the respondent-bank, today, in view of the ratio of the aforesaid judgment of the Supreme Court, very fairly submits that obviously in the aforesaid circumstances, he cannot oppose the petition.

Even otherwise, had he opposed it, again very obviously the petition would have to be allowed in the terms of what has been held above.

Consequently, the petition is allowed, with that part of the impugned order dated 24.04.2019 set aside, which directs payment of 20% of the compensation in terms of Section 143A of the Act of 1881.

However, nothing stated in this order or any previous order shall be taken by the trial court to be any observation on the merits of the case, for or against the petitioner or the respondent, which would naturally

be gone into by that court wholly on the basis of the evidence led before that court.

(AMOL RATTAN SINGH)
JUDGE

10.12.2019

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Whether reasoned/speaking: Yes
Whether reportable: Yes