

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 204 of 2021**

Laxmikanth Rathore @ Bantu Rathore, Aged about 60 years, S/o Late Shri Makhan Lal Rathore, R/o Rathore Bada, Rathore Chouck, Raipur, Chhattisgarh, Office At : Angeethi Dhaba, Baba Gilaram Nagar, Devpuri, Raipur, Chhattisgarh.

---Petitioner/Accused**Versus**

1. Rakesh Jadwani S/o Late Shri Doulat Ram Jadwani, Aged about 40 years, R/o Ahmadji Colony, Near Nal Ghar Chouck, Raipur, Chhattisgarh. – **Complainant**
2. The State of Chhattisgarh, Through The Collector, Distt. Raipur, Chhattisgarh.

--- Respondents

For Petitioner :- Mr. J.K. Gupta, Advocate

For State :- Mr. Sunil Otvani, Addl. A.G. and
Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****23/02/2021**

1. Respondent No. 1/complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter, 'the NI Act') stating

inter alia that the cheque issued by the petitioner/accused has been dishonored and thereafter, during the pendency of the complaint, on 24/06/2019, he also filed an application under Section 143A of the NI Act for grant of interim compensation which was eventually rejected by the trial Magistrate by order dated 28/01/2020, but in the revision preferred by respondent No. 1/complainant, the revisional Court allowed the application by order impugned dated 22/01/2021 and directed the trial Magistrate to compute the interim compensation and grant the same to the complainant against which the instant petition under Section 482 of CrPC has been preferred by the petitioner/accused.

2. Mr. J.K. Gupta, learned counsel for the petitioner/accused, would submit that the revision preferred by respondent No. 1/complainant was not maintainable and the petitioner/accused is not responsible for delay in completion of the complaint case, therefore, the impugned order deserves to be set aside.

3. I have heard learned counsel for the parties, considered their submissions made herein-above

and went through the records with utmost circumspection.

4. Section 143A of the Negotiable Instruments Act, 1881 provides as under :-

"143A. Power to direct interim compensation. - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under section 138 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.

(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.

(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 years, 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.

(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).

(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."

5. Section 143A which provides for power to direct interim compensation was inserted in the Negotiable Instruments Act, 1881 w.e.f. 01/09/2018 by the Amendment Act 20 of 2018 with an object to provide interim compensation to the extent of 20 per cent of the amount of cheque during the pendency of the complaint and that provision has been held to be prospective in nature and confined to cases where offences were committed after the introduction of Section 143A w.e.f. 01/09/2018 by the Supreme Court in the matter of **G.J. Raja v. Tejraj Surana**¹.

6. Similar is the proposition held by the Bombay High Court in the matter of **Babanraoji Shinde Sugar and allied Industries Ltd. v. State of Maharashtra**². As such, the power and jurisdiction under Section 143-A of the Act of 1881 can be exercised by the trial Magistrate/Judicial Magistrate 1st Class w.e.f. 01/09/2018 for grant of interim compensation in

1 2019 SCC Online SC 989 : (2019) 10 SCC 489

2 2019 SCC Online Bom 10803

a complaint filed and pending under Section 138 of the NI Act, 1881 following the judgment of the Supreme Court in the matter of G.J. Raja (supra).

7. Reverting to the facts of the instant case in light of the aforesaid judgments (supra), it is quite vivid that the trial Magistrate rejected respondent No. 1/complainant's application for grant of interim compensation under Section 143A of the Act of 1881 on the ground that the petitioner/accused is not responsible for delay in completion of the trial, however, the revisional Court has noticed that the trial Magistrate has the power and jurisdiction to grant interim compensation under Section 143A of the Act of 1881 as the cheque in question was dishonored on 24/12/2018 and the complaint was filed on 24/05/2019, therefore Section 143A of the Act of 1881 is applicable, and remitted the matter to the trial Magistrate to consider respondent No. 1/complainant's application for grant of interim compensation under Section 143-A of the Act of 1881, which is strictly in accordance with law and the petitioner/accused is at liberty to make all such submissions

before the trial Magistrate while consideration of the said application under Section 143-A of the Act of 1881. Similarly, the argument made by learned counsel for the petitioner/accused that revision preferred by respondent No. 1/complainant was not maintainable in view of Section 397 of CrPC is also rejected as it is an important and valuable right of respondent No. 1/complainant to get interim compensation in terms of Section 143-A of the Act of 1881.

8. Consequently, the instant petition under Section 482 of CrPC deserves to be and is accordingly dismissed. No cost(s).

9. Learned trial Magistrate is directed to consider the said application filed by respondent No. 1/complainant under Section 143A of the Act of 1881 as directed by the revisional Court within 30 days from the date of receipt of a copy of this order.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 204 of 2021****Petitioner** Laxmikant Rathore @ Bantu Rathore**Versus****Respondents** Rakesh Jadwani & Anr.**(English)**

In a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881, the Judicial Magistrate is empowered to grant interim compensation under Section 143A of the said Act.

(Hindi)

परक्राम्य लिखित अधिनियम, 1881 की धारा 138 के अधीन
परिवाद में, न्यायिक मजिस्ट्रेट उक्त अधिनियम की धारा 143-अ
के अंतर्गत अंतरिम प्रतिकार प्रदान करने हेतु सशक्त है ।