

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-476-2021 (O & M)
Date of decision: 20.04.2021

Akash Kumar

...Petitioner

Versus

Amit Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gurpreet Singh, Advocate, for the petitioner.

HARNARESH SINGH GILL, J.

Case was taken up for hearing through video conferencing.

Challenge in the present petition is to the order dated 17.02.2021 passed by the learned Judicial Magistrate, Ist Class, Pataudi, whereby pending adjudication of the complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'), the petitioner was directed to pay interim compensation of 20% of the cheque amount to the complainant, in terms of Section 143A of the Act.

Learned counsel for the petitioner contends that the impugned order passed by the trial Court is not sustainable for the reason that during his testimony before the trial Court, the complainant while appearing as CW1, has taken contradictory stands and thus, there is no chance of the proceedings ending into the conviction of the petitioner.

However, I do not find any merit in the said argument raised by the learned counsel for the petitioner.

Admittedly, in terms of Section 143A of the Act, in a pending complaint under the Act, if the accused has not pleaded guilty and the charge has already been framed, the learned trial Court, can make any order regarding the interim compensation to the complainant i.e. not exceeding 20% of the cheque amount. Section 143A of the Act was inserted by way of amendment w.e.f. 01.09.2018. The complaint was filed by the complainant after the said amendment. The case is at the stage of evidence, which means, it has already crossed the stage of pleading not guilty by the accused and framing of the charge. Thus, the twin conditions of the said Section, having been met, the learned trial Court was well within its powers, to pass the impugned order. The learned trial Court is right in observing that the testimony of CW1 cannot be viewed in isolation, when the remaining evidence of the complainant is yet to be taken. Besides, the merit of the case is not to be seen by the Court at the time of passing the order under Section 143A of the Act.

No other point has been urged.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

20.04.2021

ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No