

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 CRIMINAL WRIT PETITION NO.878 OF 2022

ANIL VASANT GHODE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr Ashwin V. Hon
APP for Respondent/State : Mr G.O. Wattamwar

CORAM : SHRIKANT D. KULKARNI , J.

DATE : 25th JULY, 2022

PER COURT :

1. The petitioner is challenging the order of interim compensation passed by the Judicial Magistrate First Class (IInd Court) Rahata in Summary Criminal Case No. 408/2019 by taking aid of section 143A of the Negotiable Instruments Act, 1881.

2. Heard Mr Ashwin Hon, learned counsel for the petitioner. He invited my attention to the impugned order passed below Exh.15 in Summary Criminal Case No. 408/2019. He submitted that the petitioner has informed to the complainant well in advance that his cheque was lost and he has lodged complaint to that effect in the Police Station. As such, no payment was due. Even then, original complainant initiated proceedings under section 138 of the Negotiable Instruments Act, 1881. The petitioner pleaded not guilty.

3. In the meantime, the complainant moved an application for interim compensation and same was allowed by the Judicial Magistrate First Class. He submitted that the impugned order is bad in law. It is not a

genuine complaint filed by the complainant. The learned Judicial Magistrate First Class has overlooked the facts of the case and the defence raised by the petitioner. He, therefore, urged to quash and set aside the impugned order passed by the Judicial Magistrate First Class.

4. Having regard to the submissions of Mr Hon, learned counsel for the petitioner, I have gone through the impugned order passed below Exh.15 in Summary Criminal Case No.408/2019 dated 26th March, 2022. I have also gone through the provisions of section 143A of the Negotiable Instruments Act,1881.

5. A question was put to the learned counsel Mr Hon, as to how the impugned order suffers from any legal defect. He failed to point out which is the legal defect in the impugned order. On going through the impugned order, it is revealed that the learned Judicial Magistrate First Class has exercised his discretionary powers vested under section 143A of the Negotiable Instruments Act, and by considering the facts of the case, issued directions to the present petitioner to pay interim compensation of 10% of the cheque amount to the original complainant within a period of 60 days from the date of order. Whatever, defence is raised by the learned counsel for the petitioner, would be taken into consideration during the trial. The award of interim compensation is discretion of the Judicial Magistrate First Class, and I do not find any error on the part of the Judicial Magistrate First Class while awarding interim compensation to the extent of 10% of the cheque amount. I do not find any merit in the petition.

ORDER

- (i) The Criminal Writ Petition stands dismissed.
- (ii) The learned Judicial Magistrate First Class to expedite the trial in view of the interim compensation awarded in favour of the complainant.

[SHRIKANT D. KULKARNI, J.]

mta