

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 CRIMINAL WRIT PETITION NO.983 OF 2022

SAI FOODS AND AGRO INDUSTRIES
THROUGH ITS PROPRIETOR MARUTI LAXMAN REVGADÉ
VERSUS
SUNIL BANSILAL RATHI

Advocate for Petitioners : Mr Satyajeet S. Dixit

CORAM : SHRIKANT D. KULKARNI , J.

DATE : 25th JULY, 2022

PER COURT :

1. The petitioner has challenged the impugned order of interim compensation passed by the Additional Chief Judicial Magistrate, Sangamner dated 25th April, 2022 mainly on the ground of violation of the principles of natural justice.

2. Heard Mr S.S. Dixit, learned counsel for the petitioner. He invited my attention to the impugned order passed below Exh. 16 in SCC No. 1041/2021 dated 25th April, 2022. He also invited my attention to the copy of application at page No. 23 (Exh.19) filed on behalf of the petitioner through his advocate seeking time to file reply. He pointed out that application for time to file reply was turned down by the Additional Chief Judicial Magistrate, Sangamner on 4th April, 2022. He further pointed out that the impugned order of interim compensation came to be passed on 25th April, 2022 without giving any opportunity of hearing to the petitioner or his advocate. He submitted that it is violation of the principles of natural justice. The Additional Chief Judicial Magistrate, Sangamner ought to have given an opportunity of hearing before passing the

impugned order. He, therefore, urged to quash and set aside the impugned order.

3. True that Judicial Magistrate First Class is empowered to grant interim compensation in view of section 143-A of the Negotiable Instruments Act, 1881. On perusing the copy of order passed below Exh. 16 in SCC No.1041/2021 (page 25), it is revealed that learned Additional Chief Judicial Magistrate, Sangamner seems to have not given an opportunity of hearing to the petitioner or his advocate before passing the impugned order. The complainant has filed an application for interim compensation on 20th November, 2021, and the petitioner/accused was directed to file his say. He failed to file his say till 04.04.2022. On 04.04.2022, the petitioner applied for extension of time, but prayer was turned down. The learned Additional Chief Judicial Magistrate, Sangamner was pleased to pass the interim order of compensation on 25th April, 2022 and directed to the petitioner to pay interim compensation @ 20% of the amount of disputed cheques to the complainant within 90 days from the date of order in view of section 143-A of the Negotiable Instruments Act. Though, the petitioner could not file his reply, his right of hearing cannot be denied while deciding the application for interim compensation. The right of accused of hearing cannot be denied. It seems that the learned Additional Chief Judicial Magistrate, Sangamner has passed the order under impression that present petitioner has failed to file reply and straightway passed the impugned order resulting violation of the principles of natural justice.

4. Certainly, the impugned order needs to be quashed and set aside. No prejudice would be caused to the respondent/complainant if application for interim compensation is decided afresh. As such, no notice to respondent/complainant is necessary. It would be appropriate to issue directions to the learned Additional Chief Judicial Magistrate, Sangamner to decide the application for interim compensation afresh by giving an opportunity of hearing to the petitioner/accused and his advocate. Hence, the following order is passed :-

ORDER

- (i) The Criminal Writ Petition is allowed.
- (ii) The impugned order passed below Exh. 16 in SCC No. 1041/2021 by the learned Additional Chief Judicial Magistrate, Sangamner dated 25th April, 2022 is hereby quashed and set aside.
- (iii) The learned Additional Chief Judicial Magistrate, Sangamner is directed to give one week's time to the petitioner/accused to file his reply to the application for interim compensation and decide afresh within a week thereafter by giving an opportunity of hearing to both the sides.
- (iv) Accordingly, the criminal writ petition is disposed of.
- (v) Authenticated copy be given.

[SHRIKANT D. KULKARNI, J.]