

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 545/2022

(S. K. Marketing thr. its Proprietor Hassan Khuzema Shafiq Vs. Kaushik Udyog Limited)
 with

CRIMINAL WRIT PETITION NO. 499/2022

(S. K. Marketing thr. its Proprietor Hassan Khuzema Shafiq Vs. Kaushik Udyog Limited)
 with

CRIMINAL WRIT PETITION NO. 500/2022

(S. K. Marketing thr. its Proprietor Hassan Khuzema Shafiq Vs. Kaushik Udyog Limited)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Mr. Gaurav Khond, Advocate with Mr. J. S. Mishra, Advocate for
 petitioner.

Mr. Dara Singh Sindhu, Advocate for respondent.

CORAM : VINAY JOSHI, J.

DATED : 06/10/2022.

Heard.

2. These three petitions of respective accused of the complaint under Section 138 of the Negotiable Instruments Act ('N.I. Act') have challenged the orders dated 06.06.2022 passed in terms of Section 143-A of the N. I. Act, directed the petitioners to pay 20% of the disputed cheque amount. The issue involved in three petitions is one and the same, as the facts are identical they are taken together for disposal.

3. The learned counsel for the petitioner would submit that the petitioner has good case to resist the application filed by the respondent in terms of Section 143-A of the N. I. Act. Further, he would submit that the provision of Section 143-A of the N. I. Act being of directory nature, the Court is obliged to record the

reasons before passing the order. To substantiate said contention, reliance is placed on the decision of this Court in case of ***Mr. Ashwin Ashokrao Karokar Vs. Mr. Laxmikant Govind Joshi*** (Criminal Writ Petition No. 48/2022, decided on 07.07.2022 with other connected matters). Perusal of impugned order indicates that the Court has passed the order by merely referring the provision of Section 143-A of the N. I. Act. The impugned orders do not spell the reasons for using discretion in passing such orders. Already this Court has taken a view that the provision is of the directory nature and thus, the Court has to record the reasons for determining the quantum of interim compensation.

4. In view of above, it is necessary to direct the Trial Court to pass reasoned order in view of the above referred decision of this Court. In the circumstances, the impugned orders dated 06.06.2022 passed in S.C.C. No. 5879/2020, S.C.C. No. 5858/2020 and 5892/2020 are hereby quashed and set aside.

5. The applications filed by respondent/complainant under Section 143-A of the N.I. Act are restored. The Trial Court after hearing both side, shall decide those applications on its own merits without getting influence by this order.

6. It is made clear that the impugned orders are set side only because there are no reasons as well as this Court has not expressed any opinion on merits. The Trial Court shall decide interim applications within two weeks from 24.11.2022, on which the

matters are informed to be scheduled.

7. Petitions stand disposed of in above terms.

(VINAY JOSHI, J.)

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