

CRM-M-45341-2022 and connected petitions

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

Date of decision: 30.11.2022

1. CRM-M-45341-2022

Kiran Devi ...Petitioner

Versus

Karanjeet SinghRespondent

2. CRM-M-45466-2022

Sunil J.S. ...Petitioner

Versus

Karanjeet SinghRespondent

3. CRM-M-45520-2022

Vijay Kumar ...Petitioner

Versus

Karanjeet SinghRespondent

AND

4. CRM-M-45525-2022

Lal Bihari ...Petitioner

Versus

Karanjeet SinghRespondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Prabir Bhattacharyya, Advocate,
for the petitioners in all the petitions.

CRM-M-45341-2022 and connected petitions

HARNARESH SINGH GILL, J. (ORAL)

The aforesaid bunch of petitions raises an identical issue i.e. whether applicability of order passed by the Hon'ble Supreme in Re: Cognizance of extension of limitation, Suo Moto Writ Civil No.3 of 2020, and Section 143-A of the Negotiable Instruments Act, 1881 (inserted by way of amendment w.e.f. 01.09.2018) would apply in these cases?

The controversy being identical, for facility of reference, the facts are taken from CRM-M-45341-2022.

The respondent-complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') on 21.09.2020 against the petitioner, in respect of dishonor of cheques, amounting to Rs.2,00,000/- and Rs.3,00,000/- issued by the petitioner. Vide impugned order dated 21.09.2020, learned trial Court, while treating the complaint filed within limitation, summoned the petitioner under Section 138 of the Act. Pursuant thereto, the petitioner appeared before the trial Court and was released on bail. Thereafter, the petitioner pleaded not guilty and the matter was adjourned for complainant's evidence. However, vide impugned order dated 03.12.2021, the trial Court had directed the petitioner to deposit 15% of the amount of the cheques in question, payable to the respondent upto 16.02.2022. Aggrieved thereagainst, the petitioner unsuccessfully filed the revision before learned Addl. Sessions Judge, Gurugram.

Learned counsel for the petitioner contends that the respondent, who is a money-lender, used to lend money against promissory notes; that the cheques submitted by the respondent in various pending

CRM-M-45341-2022 and connected petitions

cases make it amply clear that in all cases, blank signed cheques, were given to the respondent for security purposes prior to the actual transaction of lending. He further contends that the petitioner received the legal notice on 21.07.2020 and limitation period for filing the complaint was to expire on 04.09.2020 and, therefore, the order dated 23.03.2020 passed by the Hon'ble Supreme Court read with the subsequent order dated 06.05.2020, whereby the limitation period was extended upto 15.06.2020, had no application in the present case. He would further contend that the excuse of the respondent that he could not file the complaint well in time due to non-functioning of the courts, ought to have been outrightly rejected, and that moreover, the trial Court had not issued any notice to the petitioner-accused to show cause as to why the delay should not be condoned. In support of his contentions, learned counsel relies upon the judgment rendered by the Hon'ble Supreme Court in P.K.Choudhary Vs. Commander, decided on 13.03.2008.

Learned counsel further contends that the order granting interim compensation of 15% of the cheque amount, is against the settled principles and the impugned orders calls for interference; that the courts below are required to exercise the judicious discretion under Section 143-A of the Act, and that no reason had been recorded by the Magistrate that the petitioner had adopted any of the factors, entailing the consideration of the application under Section 143-A of the Act. In support of his contentions, learned counsel relies upon the judgments rendered by the Madras High Court in L.G.R.Enterprises Vs. P.Anbazzhagan and other, Id # 1540618 and the Karnataka High Court in case titled as Mr. V.Krishnamurthy Vs. Dairy

CRM-M-45341-2022 and connected petitions

Classic Ice Creams Pvt. Ltd., Criminal Petition No.632 of 2022, decided on 01.06.2022.

I have heard the learned counsel for the petitioner.

This Court does not find any merit in the arguments raised by the learned counsel for the petitioner. The impugned complaint was filed qua dishonour of cheques dated 18.06.2020 and 19.06.2020, amounting to Rs.2 lakh and Rs.3 lakh, respectively. The above said cheques were presented for encashment on 20.06.2020, but the same had been returned unpaid, vide memo dated 22.06.2020, with the remarks 'funds insufficient'. The legal notice was sent to the petitioner on 17.07.2020 and the same was received by him on 21.07.2020. However, the impugned complaint was filed on 21.09.2020. Indisputably, the impugned complaint was not filed within the limitation period. The respondent took a plea that owing to Covid-19, the delay in filing the complaint had occurred. The Hon'ble Supreme Court, vide its order dated 23.03.2020, in **“In Re : Cognizance of extension of limitation, Suo Moto Writ Civil No.3 of 2020**, ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law of Special Laws whether condonable or not shall be extended w.e.f. 15.03.2020 till further orders. However on 08.03.2021, it was mandated that the relaxation of period of limitation shall be permitted between 15.03.2020 and 14.03.2021 and it was made clear that the period of limitation would start from 15.03.2021. In view of the aforesaid orders passed by the Hon'ble Supreme Court, this Court finds that the trial Court has rightly held that the impugned complaint was filed within limitation.

CRM-M-45341-2022 and connected petitions

It would be relevant to reproduce Section 143-A of the Act,
hereunder:

"143–A. 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."

CRM-M-45341-2022 and connected petitions

A bare perusal of the aforesaid provisions makes it clear that the Court trying an offence under Section 138 of the N.I.Act, may order the drawer of the cheque to pay interim compensation to the complainant. It also shows that the discretion is vested with the trial Court to direct interim compensation to be paid by the accused. The word 'may' gives the discretion to the trial court to direct the accused to pay interim compensation to the complainant. Whenever the trial Court exercises its jurisdiction under Section 143-A of the Act, it shall record reasons as to why it directs the accused person to pay the interim compensation to the complainant. While granting interim compensation under Section 143-A of the Act, the twin conditions that are required to be satisfied are that (i) in a summary trial or summons case, the charge(s) has been framed and (ii) the accused has pleaded not guilty to the accusation. The trial Court while granting the interim compensation, has noticed that the impugned complaint was filed on 21.09.2020 and notice of accusation was served on 10.11.2020, to which the petitioner-accused pleaded not guilty and claimed trial. Section 143-A of the Act came into force on 01.09.2018. Indisputably, the impugned complaint was filed qua the dishonour of cheques dated 18.06.2020 and 19.06.2020 i.e. after coming into force the aforesaid provision. The Hon'ble Supreme Court in G.J. Raja Vs. Tejraj Surana, 2019(3) RCR (Criminal) 959, has held that liability fastened by Section 143-A of the Act (inserted by way of Amendment Act, 2018) are prospective in nature. This Court finds that the courts below have rightly granted the interim compensation by applying all the parameters prescribed under the aforesaid provisions.

CRM-M-45341-2022 and connected petitions

So far as contentions of the learned counsel for the petitioner that the respondent is a money-lender and that blank signed cheques were given to him for security purposes prior to the actual transaction of lending, are concerned, it would not proper for this Court to undertake hair splitting scrutiny of materials on record in a quashing petition under Section 482 Cr.P.C. The judgments relied upon by the learned counsel for the petitioner, are not applicable to the present case having distinguishable facts,

Therefore, finding no merit in the present petitions, the same are dismissed.

30.11.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No