

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

**CRM-M- No.54345 of 2021
Date of Decision:- 05.05.2022**

Ranbir Chand @ Ranvir Chand Singla

....Petitioner

Vs.

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. G.S. Verma, Advocate
for the petitioner.

KARAMJIT SINGH, J.(Oral)

The counsel for the petitioner made statement that he be allowed to withdraw the present petition to the extent of quashing of criminal complaint bearing NACT-140/2020, dated 15.12.2020, Chamkaur Singh Vs. Ranbir Chand, pending in the court of Ld. Sub Divisional Magistrate, Moonak, Annexure P-1 with liberty to take all the pleas in this regard before the Trial Court at appropriate stage.

Ordered accordingly.

The counsel for the petitioner while restricting his arguments, has laid challenge to order 24.09.2021, Annexure P-4,

passed by the Trial Court, whereby the petitioner has been directed to deposit Rs.1,20,000/- as interim compensation within a period of 60 days, in the light of provisions of Section 143(A) of Negotiable Instruments Act.

Notice of motion.

On asking of the Court, Ms. Samina Dhir, DAG, Punjab accepts notice on behalf of State of Punjab.

The present petition has been filed by the petitioner seeking quashing of the order dated 24.09.2021 (Annexure P-4) passed by Ld. JMIC, Moonak, in criminal complaint/NACT-140/2020, dated 15.12.2020, Chamkaur Singh Vs. Ranbir Chand, to the extent whereby the said Court directed the petitioner to deposit 20% of cheque amount towards interim compensation to the complainant, as per the provisions of Section 143(A) of Negotiable Instruments Act.

The brief facts of the case are that respondent Chamkaur Singh has filed aforesaid criminal complaint against the present petitioner under Section 138 of Negotiable Instruments Act. On the completion of preliminary evidence, the petitioner was summoned and he appeared before the Trial Court and was granted bail. The Trial Court on 24.09.2021 passed the following order:-

“Present: Gagandeep Bhagria, Adv. Counsel for complainant. ”

Accused on bail with counsel Sh. HS Sidhu, Advocate.

Heard on point of service of notice of accusation.

Finding a prima-facie case being made out against the accused for commission of offence punishable under Section 138 of Negotiable Instrument Act, 1881, notice of accusation was served upon the accused Ranbir Chand. The contents of the notice were read over and explained to accused in vernacular, to which he pleaded not guilty and claimed trial.

Learned counsel for the complainant has argued that as per latest amendment in Negotiable Instrument Act, 1881 interim compensation be ordered to be paid by the accused to the complainant. Section 143-A has been inserted in Negotiable Instrument Act 1881, which provides that the Court trying the offence under Section 138 of Negotiable Instrument Act 1881 may direct the drawer/accused to deposit 20% of the cheque amount as interim compensation to the complainant where the accused/drawer pleads not guilty to the accusation made in the complaint. Accordingly, accused is directed to deposit Rs.1,20,000/- amount as interim compensation to complainant within a period of 60 days from today. In pursuance of directions given by Hon'ble Supreme Court of India in "Indian Bank Association Versus Union of India" accused has requested to cross-examine complainant witness, therefore, case is fixed for complainant evidence for 03.12.2021 and payment of interim compensation.

Date:24.09.2021

*Sd/-
JMIC, Moonak.”*

The petitioner has not challenged the aforesaid order to the extent whereby notice of accusation was served upon him. However, he being aggrieved of the order passed by the trial Court under Section 143(A) of Negotiable Instruments Act, the petitioner has filed the present petition.

The counsel for the petitioner contended that the impugned order whereby the petitioner has been directed to pay interim compensation to the complainant as per the provisions of Section 143(A) of Negotiable Instruments Act, is totally illegal, being passed in mechanical manner without application of mind. The counsel further contended that recently Delhi High Court in *CRL.MC 2663 of 2021 M/s Jsb Cargo and Freight Forwarder Pvt. Ltd Vs. State and another, decided on 20.12.2021*, held that provision of Section 143(A) Negotiable Instruments Act, essentially is directory and cannot be termed as mandatory in nature. The counsel further contended that it appears that the trial Court gave the impugned direction, having the impression that the aforesaid provision is mandatory in nature. The counsel further contended that the impugned order to the extent stated above is liable to be set aside.

I have considered the submissions made by counsel for the petitioner.

This Court is of the view that the present petition can be disposed of without issuing any notice to the opposite party, for the reasons stated herein below.

Admittedly, the Delhi High Court in *M/s Jsbs Cargo (supra)* remitted the matter to trial Court after holding that provision of Section 143(A) of Negotiable Instruments Act, is only directory in nature. Even the Karnataka High Court in Criminal Petition No.100261/2022 *Vijaya Vs. Shekharappa and another decided 17.02.2022 reported in 2022 Live Law (Kar) 82*, has also taken similar view.

Admittedly, no opportunity was given to the petitioner to file his reply, before passing of the impugned order despite the fact that he had not pleaded guilty to the notice of accusation served upon him under Section 138 of Negotiable Instruments Act. From the perusal of impugned order, it appears that the Trial Court granted interim compensation under Section 143(A) of Negotiable Instruments Act just in a mechanical manner and there is no application of mind as to why the said compensation has to be awarded. The Trial Court misread Section 143(A) of Negotiable Instruments Act and treated the said provision of law as mandatory in nature, whereas the legal position is otherwise as has been discussed above.

In light of the above, the impugned order to the extent it has been challenged is liable to be set aside being non-speaking and contrary to settled position of law as detailed above.

Consequently, the present petition is hereby allowed and the impugned order dated 24.09.2021, Annexure P-4, to the extent stated above, is hereby set aside and the matter is remanded back to learned Trial Court to dispose of the matter regarding grant of interim compensation to the complainant/respondent under Section 143A, in accordance with law within one month of the receipt of certified copy of this order.

05.05.2022*P. Chawla***(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No