

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 69 OF 2023**

Nisha Naik Pednekar	... Petitioner
<i>Versus</i>	
Vishal Dattatray Pednekar	...Respondent

Mr. Sahil Deshprabhu, Advocate *for the Petitioner.*

CORAM: M. S. KARNIK, J
DATED: 17th JULY 2023

ORAL ORDER

1. Heard learned counsel for the petitioner.

2. The challenge in this petition under Article 227 of the Constitution and Section 482 of the Code of Criminal Procedure (Cr.P.C.), is to the order dated 18.04.2023 passed below Exhibit 23 by the trial Court. The impugned order was passed by the trial court under section 143-A of the Code of Criminal Procedure, 1973, (Cr.P.C., for short) filed by the respondent at exhibit 23. The petitioner-original accused filed a reply at exhibit 25 opposing the application.

3. Learned counsel for the petitioner, assailing the impugned order, relied upon the decision of this court in the case of **Mr. Ashwin Ashokrao Karokar vs. Mr. Laxmikant Govind Joshi**

(Nagpur Bench) in **Criminal Writ Petition No. 48/2022** in support of his submission that while exercising the discretion, no reasons have been recorded for determining the quantum of interim compensation.

4. Learned counsel for the petitioner has invited my attention to the impugned order to submit that except for making a vague reference to the decision in **Mr. Ashwin Ashokrao Karokar** (supra), without recording any reasons, the trial Court held that this was a fit case to exercise discretion. Learned counsel submitted that a direction to deposit 20% of the amount is maximum permissible and the trial court has failed to record any reasons why the insistence for deposit of the maximum amount of 20% and not for a lesser amount.

5. I have gone through the order passed by the trial Court. The trial Court after taking into consideration the materials on record came to a conclusion that the presumption under section 139 of the Negotiable Instruments Act, 1881, is in favour of the respondent, the original complainant. The trial court, *prima facie*, held that there is no reason to disbelieve the complainant. The order passed by the trial court cannot be said to be not a reasoned order.

6. For good reasons, the trial court has exercised discretion in favour of the complainant which cannot be said to be an arbitrary exercise discretion to warrant interference. However, it needs to be clarified that the observations of the trial court in the impugned order are *prima facie* in nature and shall not influence the trial court while deciding the main matter on its own merits.

7. With this clarification, the petition stands rejected.

M. S. KARNIK, J

ANDREZA PEREIRA

Digitally signed by ANDREZA
PEREIRA
Date: 2023.07.18 19:26:35 +05'30'