

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4128 OF 2021

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Shadab Khan

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Sukrut Mhatre with Mr. Jyotirmay Deshmukh for
the petitioner.

Mr. Gautam Ankhad i/by Mr. Tushar Gujjar, Deep
Madnani, & Karan F. i/by SL Partners for respondent
no.2.

Mr. A.R. Patil, APP for respondent/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 15, 2023

PC.:

1. The writ petition is directed against order dated 8th February 2021 passed by the learned Additional Sessions Judge, Mumbai in Criminal Revision Application No.389 of 2020 confirming order dated 7th March 2020 passed by the learned Metropolitan Magistrate 33rd Court, Ballard Pier, Mumbai directing petitioner (managing director and promoter) to pay 20% of the cheque amount towards interim compensation in exercise of powers under section 143A of the Negotiable Instruments Act, 1881 (hereafter “NI Act”, for short). The cheques are issued by accused nos.1 and 2/companies. Undisputedly, the petitioner is a managing director

and promoter of accused nos.1 and 2/companies.

2. For the reasons stated in judgment dated 8th March 2023 in a group of matters, lead matter being Criminal Application No.886 of 2022, this Court has already held that the authorized signatory of a cheque issued by the accused/company in a proceeding under section 138 of the NI Act cannot be directed to pay interim compensation under section 143A of the NI Act as such authorized signatory is not “drawer” within the meaning of section 143A of the NI Act.

3. Drawing the same analogy, the petitioner being managing director and promoter and not “drawer”, no order under section 143A of the NI Act can be passed against a managing director and promoter.

4. In that view of the matter, the writ petition succeeds.

5. Rule is made absolute in terms of prayer clauses (b) and (c).

6. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 26 April 2023 to insert the appearance of the petitioner.