

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2933 OF 2022

Pravin Vishram Bhadane .. Petitioner
v/s.
The State of Maharashtra & Anr. .. Respondents

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Mr. Aniket Nikam, a/w. Mr. Amit Icham, i/b. Mr. Aashish Satpute, for
the Petitioner.

Mr. A.R. Patil, APP, for State/Respondent No.1.

Mr. Ashok Garje, i/b. Ms. Pranjali Bhandari, for Respondent No.2.

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CORAM: R.G. AVACHAT, J.

DATE : 6 JANUARY 2023.

P.C:-

Heard.

2. This petition has been filed by the original accused in
Summary Criminal Case No.1412 of 220 on the file of 3rd Joint
Additional Chief Judicial Magistrate, Malegaon, District-Nashik.

3. The complainant moved the application (Exhibit-25)
under Section 143-A of the Negotiable Instruments Act, 1881 (for

short “N.I. Act). Learned Magistrate passed the order directing the Petitioner/accused to deposit 20% of the cheque amount towards interim compensation. The said order was challenged in revision before the Court of Additional Sessions Judge. The Petitioner was unsuccessful therein. He is, therefore, before this Court in this writ petition.

4. Learned Advocate for the Petitioner would submit that jurisdiction of the Court under Section 143-A of N.I. Act is discretionary. Learned Magistrate has not given any reasons in support of the order impugned herein. He, therefore, urged for remitting the matter back to the trial court to decide the application afresh on hearing the parties thereto and pass a reasoned order.

5. Learned Advocate relies on judgment of this Court in case of *Mr. Ashwin Ashokrao Karokar vs. Mr. Laxmikant Govind Joshi*¹.

6. Learned Advocate for the Respondent/complainant supports the order impugned herein.

7. Considered the submissions advanced. Perused the complaint and the relevant documents.

8. It is true that power to grant relief under Section 143-A of

¹Criminal Writ Petition Nos.48 and 71 of 2022 decided on 7 July 2022 (Nagpur Bench).

the N.I. Act is discretionary. It is also true that an order granting or refusing to grant under Section 143-A has to be speaking one. Each case has its peculiar facts and circumstances. The facts of the present case suggest that Respondent No.2/complainant paid the Petitioner/accused sum of Rs.1,30,00,000/- through RTGS. This fact has not been disputed before this Court. As per the case of the Respondent/complainant, an agreement was entered into between him and the Petitioner/accused. The Petitioner agreed to sell him 45,000 sq. ft. of land. Since the transaction could not be materialised, the Petitioner issued him 16 cheques totalling worth Rs.3,45,00,000/-. The cheques were presented for encashment. Two of the 16 cheques returned unpaid for the reason, "blocked". Rest of the cheques were bounced on account of want of sufficient funds in the account.

9. The question is whether the learned Magistrate has not given any reason in support of his order. This Court has, therefore, minutely perused the order. The learned Magistrate first adverted to the averments of the application at Exhibit-25. Then he refers to the reply filed to the said application. The submissions made by learned Advocate representing the parties concerned have also been reproduced. Then he gave reasons in not less than 5 pages. In para 2 of his reasons, learned Magistrate has observed that the requirements for granting application, were complied with. He then observes that the accused was well protected, in case he gets acquitted, the

complainant is bound to return the interim compensation amount with interest at the prevalent bank rate. 20% amount would not be considered to be huge one compared to the amount covered by the cheques. Learned Magistrate observes that fund capacity of the Petitioner/accused could be considered when the time of sentence or directing him to pay compensation in terms of Section 357(3) Cr.P.C. would arise.

10. Tho order passed by the learned Magistrate suggests that all the facts of the case were on his mind, although he did not spell out his reasons in so many words in support of the order impugned herein. It is reiterated that the Respondent/complainant claim to have paid the Petitioner/accused a sum of Rs.1,30,00,000/- through RTGS, i.e. the said amount was transferred to the account of the bank of the Respondent through the bank account of the Petitioner herein. It was way back in 2018 itself. The cheques were issued in the sum of Rs.3,45,00,000/-. In the facts and circumstances of the case, learned Magistrate, though did not give reasons in so many words, was justified in directing the Petitioner to deposit 20% of the cheque/s amount. This Court, therefore, finds no reason to interfere with the order impugned herein. The writ petition, thus, fails. The same is, therefore, dismissed.

11. At the request of learned Advocate for the Petitioner/accused, the interim order to continue for next six weeks.

(R.G. AVACHAT, J.)