



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 449 of 2023

Shri Rahul S/o. Shrawan Singh,
Aged about 48 years,
Occu. Business,
R/o. Swami Vivekanand Nagar,
Kanhani, Dist. Nagpur.
8208181792 (M)

... Petitioner

... Versus ...

Shri Rachit Michael Rao,
Aged about 35 years,
Occu. Business,
R/o. Plot No.45, Om Nagar,
Duplex Colony, J. N. Nagar,
Kandhari, Kanhani – 441 401

... Respondent

Mr. H. I. Kothari, Advocate for the petitioner
None for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 5-9-2023

ORAL JUDGMENT

Rule. Rule made returnable forthwith. With consent, the petition is heard finally.

2. The challenge is to the order dated 6-1-2023 passed by the Additional Sessions Judge-16, Nagpur in Criminal Revision No. 105/2022. The petitioner is a complainant. The applicant before the

Sessions Court was accused before the trial Court. The complainant has filed complaint under Section 138 of the Negotiable Instruments Act (N.I. Act). Learned Magistrate vide order dated 5-4-2022 has issued directions to the accused to pay interim compensation equivalent to 20% of the cheque amount in terms of Section 143-A of the N.I. Act.

3. This order has been set aside by the Sessions Court on two grounds, the first being that the accused has good defence/grounds on merit and, secondly, that the learned Magistrate has not given reasoning as to why 20% interim compensation has been granted.

4. As regards first ground, learned counsel for the petitioner is fully justified in contending that while entertaining the application under Section 143-A of the N.I. Act, the Sessions Court ought not to have made comments that has potential to affect the finding of the trial Court. As regards the second ground, I do not find substance in the submissions made by the learned counsel for the petitioner that the learned Magistrate is justified in granting 20% interim compensation without assigning any reason.

5. Section 143-A of the N.I. Act provides that the interim compensation shall not exceed 20% of the amount of the cheque. This

means that the Magistrate can award interim compensation up to 20% of the amount of cheque. In the circumstances, if Magistrate has arrived at a conclusion that 20% amount as interim compensation needs to be granted, he has to assign reasons for the same. In other words, why 20% and why not between 0 to 20% should be clarified in the order itself.

6. In view of above, following order is passed.

- (i) Writ petition is partly allowed.
- (ii) The order dated 6-1-2023 passed by the Additional Sessions Judge-16, Nagpur in Criminal Revision No. 105/2022 is set aside.
- (iii) The application is remanded back to the Civil Judge, Junior Division & J.M.F.C. Kamptee, District Nagpur to consider the application afresh and while granting interim compensation, shall assign reasons for the quantum arrived at.

7. Rule is made absolute in above terms.

(Anil L. Pansare, J.)