

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

CRM-M-10396-2023

Date of Decision: 28.02.2023

Julli Tech and others

..... Petitioners

Versus

Kulwinder Singh Grewal

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Maninder Arora, Advocate, for the petitioners.

Mr. Aayush Gupta, Advocate, for respondent.

Rajesh Bhardwaj, J.

The petitioners have approached this Court for quashing of order dated 04.02.2023 passed by the learned JMIC, SAS Nagar, Mohali in complaint No.NACT/600 of 2020 dated 29.06.2020, whereby, the petitioners have been directed to make the payment of interim compensation of Rs.20,00,000/- (Twenty Lakhs only).

As per facts of the case, the petitioners were prosecuted by the respondent-complainant by way of filing a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). It was alleged that the respondent-complainant is bonafide vendor management organization and deals with management of vendors for construction materials for projects. A Memorandum of Understanding (MOU) was signed between the petitioners-accused and the respondent-complainant on 08.03.2018, wherein, the respondent agreed to supply cement, steel, Bitumen and other construction material. The respondent-complainant supplied the material, but the petitioner failed to adhere to the payment schedule. However, four cheques were issued by the petitioners of Rs.50 Lacs each (total amounting to Rs.2 Crores), which were due up to

30.12.2019. On the assurance of the petitioners, the complainant deposited the cheques, but the same were dishonoured with the remarks "Funds Insufficient". The petitioners having been found committed offence under Section 138 of the Act, complaint was filed for their prosecution. On the presentation of the complaint, the petitioners-accused were summoned by the learned trial Court. During the trial, the respondent-complainant filed an application under Section 143-A of the Act praying for grant of interim compensation. The learned trial Court after hearing both the sides, decided the same vide order dated 04.02.2023 directing the petitioners to make the payment of Rs.20 Lacs i.e. 10% of the total amount of the four cheques in dispute. Aggrieved by the same, the petitioners have approached this Court praying for quashing of the same.

Learned counsel for the petitioners has contended that the learned trial Court passed the impugned order without following the law settled, which is unsustainable in the eyes of law and thus, deserves to be set aside. He has contended that the petitioners were not responsible for the day to day affairs of the company and thus, their prosecution is totally illegal. He submits that the petitioners had already approached this Court by way of filing CRM-M-53808-2022 praying for quashing of criminal complaint No.NACT/600 of 2020 dated 26.06.2020 titled as Kulwinder Singh Grewal vs. M/s. T.K. Engineering Consortium Pvt. Ltd and others, in which this Hon'ble Court issued notice of motion and they had been granted exemption from their appearance. He submits that the respondent-complainant has already been made a payment of Rs.2.80 Crores after filing of the complaint, however, the same has not been taken into consideration by the learned trial Court. He submits that the petitioners are not signatory

to the impugned cheques issued to the complainant, whereas, the cheques have been signed by petitioner No.5 only. It has also been submitted that the complainant has also admitted having received an amount of Rs.40 Lacs. It is further submitted that the learned trial Court has failed to appreciate that the provisions of Section 143-A of the Act are not mandatory and same are directory in nature. He has relied upon the judgment of this Court in Dharampal vs. Om Parkash, Law Finder Doc Id # 1941119, 2022(2), RCR (Criminal) 621 and has submitted that requisite grounds were not fulfilled as held by this Hon'ble Court, but the learned trial Court has failed to appreciate the same and thus arrived at a conclusion, which is totally unsustainable in the eyes of law.

Learned counsel for the respondent has opposed the submissions made by learned counsel for the petitioners and has submitted that the trial Court has committed no error in directing the petitioners to pay the compensation under Section 143-A of the Act. He has disputed the submission made by learned counsel for the petitioners of having made the payment during the pendency of the complaint. He further submits that the petitioners owe heavy amount to the respondent-complainant. He has also submitted that as per the statutory provisions, the trial Court had the jurisdiction to grant interim compensation @ 20%, whereas, the learned trial has granted the same only @ 10% and thus, neither the impugned order passed is illegal nor it is harsh in the facts and circumstances.

Heard.

After hearing learned counsel for the parties and perusing the statutory provisions, this Court does not find any merit in the arguments advanced by the learned counsel for the petitioners. Section 143-A of the

Act was incorporated by way of amendment by the Legislature, which came into effect w.e.f. 01.09.2018.

For the decision of the controversy raised before this Court, appreciation of statutory provisions of Section 143-A of the Act is essential, which reads as under:-

“[143-A. Power to direct interim compensation.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to complainant-

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty percent of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial years, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section [421](#) of the Code of Criminal Procedure, 1973.

(6) The amount of fine imposed under section [138](#) or the

amount of compensation awarded under section [357](#) of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”

A perusal of the same would show that Section 143-A of the Act provides jurisdiction to the trial Court for granting interim compensation to the complainant during the trial of the complaint filed under Section 138 of the Act.

The legislature in its wisdom has already laid down that in case the accused are acquitted on the conclusion of the trial, then the interim compensation as awarded and paid to the complainant is to be returned to the accused. The trial Court keeping in view the facts and circumstances of the present case has awarded interim compensation @ 10% of the cheques amount, which cannot be said to be unjust or arbitrary. The judgment relied upon by learned counsel for the petitioners would be of no help to the case of the petitioners, which is distinguishable on the facts.

Weighing the facts and circumstances of the case on the anvil of the law settled, this Court finds no infirmity or perversity in the impugned order passed and resultantly the same is hereby dismissed.

28.02.2023
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE