

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

CRM-M No.45962 of 2022

Date of decision: 10th January, 2023

M/s Manchanda Agencies & another

... Petitioners

Versus

The State of Union Territory of Chandigarh & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Dhruv Gupta, Advocate for the petitioners.

Mr. P.S. Paul, Addl. PP, UT Chandigarh
for respondent No.1.

Mr. Ajaivir Singh, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J.

Petitioners are impugning order dated 09.08.2022 (Annexure P-5) passed by the learned Judicial Magistrate 1st Class, Chandigarh in Criminal Complaint No.NACT 6491 of 2020 dated 28.09.2020 titled as 'Mohan Lal vs. M/s Manchanda Agencies & another' filed under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act'), wherein they had been directed to pay interim compensation to the extent of 20% of the cheque amount under Section 143-A of the Act.

Learned counsel appearing on behalf of the petitioners, while inviting attention of this Court to the impugned order which has

been annexed as Annexure P-5, has vehemently submitted that it suffers from material irregularity and on the face of it is a non-speaking order inasmuch as the petitioners were directed to pay interim compensation to the extent of 20% without assigning any cogent reason; more so, since the provisions of Section 143-A of the Act were directory in nature and not mandatory. In support, learned counsel has placed reliance upon **‘Dharmpal and another vs. Om Parkash’ 2022 (2) RCR (Criminal) 621.**

Per contra, learned counsel for the respondent No.2 while opposing the submissions made by the counsel opposite, has contended that on an appreciation of all the surrounding facts and circumstances of the case, the trial Court was perfectly justified in awarding interim compensation to the extent of 20% and the impugned order thus did not warrant any interference. However, learned counsel representing the respondent No.2 was not able to dispute that the impugned order was indeed a non-speaking one.

I have heard learned counsel for the parties and perused the relevant material on record.

It would be relevant to observe here that the provisions of Section 143-A of the Act in view of the usage of the expression ‘may’ therein, is not mandatory but is directory in nature. Section 143-A of

the Act confers discretion upon the trial Court to award interim compensation to a maximum extent of 20%, therefore, the discretion has to be exercised by the Court concerned in a judicious manner after considering and appreciating the facts and circumstances of each case and still further, since as already observed hereinabove the provisions are directory in nature, the Court concerned must assign sufficient reasons behind the passing of the order awarding interim compensation.

Adverting to the case in hand, a perusal of the impugned order reveals that the trial Court had merely reproduced the provisions of Section 143-A and discussed its statutory requirement. It had nowhere assigned any reason from which it could be even remotely discerned that the Court while passing the impugned order had applied its judicial mind in the facts and circumstances of the case.

At this stage, learned counsel for the parties are also ad-
idem that the matter may be remanded back to the trial Court for a fresh decision on the application moved under Section 143-A of the Act for award of interim compensation.

In the facts and circumstances as enumerated hereinabove, the impugned order dated 09.08.2022 (Annexure P-5) is hereby set aside and the matter is remanded back to the trial Court concerned to decide the application afresh under Section 143-A of the Act, in

accordance with the provisions of law, by passing a speaking order, and without being influenced by anything observed hereinabove. The trial Court concerned shall make earnest efforts to decide the application under Section 143-A of the Act at the earliest, preferably within a period of two weeks from the date of receipt of a certified copy of this order.

The petition stands disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

January 10, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No