

09-04-2024
Subha
Item no.148
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1460 of 2024

Smt. Chaitali Banerjee.
-versus-
Amit Ghosh

Mr. Ayan Bhattacharya
Mr. Suman Majumder
....for the petitioner.

Petitioner is aggrieved by the rejection of the order dated January 31, 2024 passed by the learned Metropolitan Magistrate, 13th court, Calcutta in connection with CS-21177 of 2022 wherein the learned Magistrate rejected the application under Section 143A of the N. I. Act, 1881 of the complainant/petitioner.

Having considered the submissions advanced on behalf of the petitioner, I direct the learned Metropolitan Magistrate, 13th Court, Calcutta to reconsider the application under Section 143A of the N. I. Act by taking into account the judgement of the Hon'ble Supreme Court in the case of *Rakesh Ranjan Shrivastava –vs- State of Jharkhand and Anr.*, reported in 2024 SCC OnLine SC 309.

The learned court would emphasize on the conclusions arrived at by the Hon'ble Supreme Court in paragraph 22 of the said judgement which is set out as follows:-.

“22. *Subject to what is held earlier, the main conclusions can be summarised as follows:*

a. The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not

mandatory. The word “may” used in the provision cannot be construed as “shall.”

b. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.

c. The broad parameters for exercising the discretion under Section 143A are as follows:

i. The Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application. The financial distress of the accused can also be a consideration.

ii. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.

iii. If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.

iv. If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.

v. There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.”

It is hereby further directed that the application under Section 143A of the N. I. Act be re-considered by the learned Magistrate by keeping in mind the aforesaid principles within a

period of 60 days from the date of communication of this order.

With the aforesaid observations, the present revisional application being CRR 1460 of 2024 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]