



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

**1028 CRIMINAL WRIT PETITION NO. 1859 OF 2023**

SANTOSH SUKHDEO TEZAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocates for the Petitioner : Mr. Deshpande Jagdish V. and Mr. Shivaji N. Dudhate

APP for Respondent/State : Mrs. D.S. Jape

Advocate for Respondent no.2: Ms. Harsha Lomte h/f Mr. Salunke Vasant Digambarao

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 6<sup>th</sup> September, 2024.

**P.C.:**

1. By this writ petition, the petitioner has challenged the order passed below Exhibit-28 dated 24<sup>th</sup> April, 2023 in S.C.C. No.221 of 2018 passed by the Judicial Magistrate, First Class at Ambad (for short, "trial Court") directing the petitioner to pay interim compensation of 20% of the amount of the disputed cheque from the date of order.

2. It is contention of the learned counsel for the petitioner that the date of issued cheque by the petitioner is dated 18<sup>th</sup> February, 2018 and the date of amendment of section 143 of the Negotiable Instruments Act, 1881 ( for short, "N.I. Act") is 1<sup>st</sup> September, 2018. So effect of amendment would be prospective effect as the date of cheque is prior to amendment. The learned trial Court should not have directed the petitioner to deposit 20% amount as enumerated under section 143 of the N.I. Act, but this fact is not considered by the trial Court and

has passed the impugned order, which is erroneous and requested to allow the writ petition.

3. It is contention of the learned counsel for respondent no.2 that the cheque issued by the petitioner in favour of respondent no.2 has been dishonoured. As per amended provisions of section 143 of the N.I.Act, the learned Magistrate has passed the well reasoned order. No interference is required in it and requested to dismiss the writ petition.

4. The learned APP submits that the appropriate order be passed.

5. I have heard all the learned counsel. Perused the impugned order passed by the trial Court.

6. It appears from the record that the date of cheque issued by the petitioner is 18<sup>th</sup> February, 2018. The date of amendment of section 143 of the N.I. Act is 1<sup>st</sup> September, 2018. The Hon'ble Apex Court in the case of ***Surinder Sing Deswal @ Col. S.S. Deswal and others Vs. Virender Gandhi (2019 DGLS (SC) 795*** has held that THE applicability of section 143A of the N.I. Act must be prospective in nature and confined to cases where offences were committed after introduction of section 143A, in order to pay interim compensation. In this case, the date of cheque is 18<sup>th</sup> February, 2018 i.e. before the date of amendment and thereafter, the complaint was filed on 18<sup>th</sup> June, 2018, hence section 143 of the N.I. Act is not applicable to this case. Considering these facts, I pass the following order :-

**ORDER**

- (i) The writ petition is allowed.
- (ii) The order passed below Exhibit-28 dated 24<sup>th</sup> April, 2023 in S.C.C. No.221 of 2018 passed by the Judicial Magistrate, First Class at Ambad is quashed and set aside.
- (iii) The Judicial Magistrate, First Class, Ambad is requested to dispose of the pending complaint as early as possible.

**[ SHIVKUMAR DIGE, J. ]**

*sga*