

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5636-2024
Date of Decision: 02.02.2024

Amit Kumar Sharma
.....Petitioner
versus
State of Haryana and another
.....Respondents

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Abhimanyu Singh, Advocate
for the petitioner

Harpreet Singh Brar, J. (Oral)

1. The petitioner has preferred the present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter ‘Cr.P.C.’) seeking quashing of impugned order dated 24.11.2023 (Annexure P-2) passed by learned Chief Judicial Magistrate, Rewari in case no. NI Act-1057-2020 titled ‘*Vijaindra Kumar Yadav v. Amit Kumar Sharma and another*’ filed under Sections 138 read with 142 of the Negotiable Instrument Act, 1881 (hereinafter ‘NI Act’) and 420 of the IPC whereby the petitioner has been directed to pay 20% of the cheque amount as interim compensation under Section 143-A of the NI Act to respondent no. 2 as well as order dated 05.01.2024 (Annexure P-4) passed by learned Sessions Judge, Rewari vide which revision petition against the impugned order was dismissed.
2. Briefly, the facts of the present case are that the petitioner availed a friendly loan from respondent no. 2-complainant by time to time for his business purpose with a promise to repay the same as and when demanded by him. The amount was transferred by respondent no. 2 through cheques and RTGS. To discharge his liability, the petitioner-accused issued two cheques i.e. cheque no.

000017 dated 15.06.2020 for Rs. 4,87,500/- and cheque no. 000018 dated 26.06.2020 for Rs. 8,50,000/-, i.e. for a total amount of Rs. 13,37,500/-. Respondent no. 2 presented the cheques for encashment on 14.07.2020, however, they were dishonoured vide memo dated 15.07.2020 with the remarks- 'funds insufficient.' A legal notice was served on the petitioner on 24.07.2020 sent on both addresses of the petitioner but the same was returned with refusal report dated 27.07.2020. The petitioner failed to make the requisite payment in the stipulated time so the instant complaint was filed, following which a notice of accusation was served to which the petitioner pleaded not guilty and claimed trial.

3. Learned counsel for the petitioner *inter alia* contends that the impugned order dated 24.11.2023 deserves to be quashed as the learned trial Court has mechanically invoked the provisions of Section 143-A of the NI Act. It is argued that the learned trial Court has failed to consider that the provisions of Section 143-A of the NI Act are directory in nature, not mandatory. Further, the petitioner has pleaded not guilty and the trial is yet to begin, as such he should not be compelled to pay 20% of the cheque amount especially when his financial situation does not allow him to do so. Moreover, the petitioner showed willingness to pay 10% of the cheque amount as interim compensation but the learned trial Court erred by not taking it into consideration.

4. Having heard learned counsel for the petitioner and perusing the record, it transpires that respondent no. 2 had filed an application before the learned trial Court praying for interim compensation amounting to 20% of the cheque amount under Section 143-A of the NI Act. The sole ground pleaded by the petitioner is that the impugned order is baseless and liable to be dismissed as the provisions of Section 143-A of the NI Act are not mandatory in nature.

5. A perusal of the record indicates that the petitioner has pleaded not

guilty to the notice of accusation served on him, as such the necessary condition for invoking Section 143-A of the NI Act, as reiterated by the Hon’ble Supreme Court in **Pawan Bhasin v. State of U.P. and Another 2023 SCC Online SC 1314**, has been met. The provisions of Section 143-A of the Negotiable Instruments Act are incorporated only to mitigate harassment to the complainant on interim basis during the pendency of the trial. No prejudice is being caused to the petitioner by imposing condition of payment 20% of the total cheque amount as interim compensation. Further, in case the petitioner is acquitted on conclusion of the trial, respondent no. 2 would be legally obligated to return the amount awarded as interim compensation to the petitioner alongwith interest. Moreover, in the absence of any specific ground taken by the petitioner, this Court finds no reason to interfere in the impugned order dated 24.11.2023 (Annexure P-2).

6. In view of the discussion above, the present petition is dismissed and 24.11.2023 (Annexure P-2) passed by learned Chief Judicial Magistrate, Rewari as well as order dated 05.01.2024 (Annexure P-4) passed by learned Sessions Judge, Rewari are upheld.

February 02, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |