

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-19807-2024 (O&M)
Date of Decision:-23.4.2024

Sukhchain Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Imran Farooqi, Advocate for the petitioner.

Mr. Vinay Kumar Malhotra, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 20.2.2024 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Malerkotla vide which the learned Trial Court has directed the petitioner/accused to deposit an amount of 20% of the cheque amount in terms of provisions of Section 143-A of Negotiable Instruments Act.
2. The relevant extract from the impugned order reads as under:

“.....Accused has furnished no explanation whatsoever as to how his cheque in question came into the hand of complainant. As per provisions of Section 143-A of Negotiable Instruments Act, accused is directed to pay 20% of the cheque amount as interim compensation to the complainant within a period of 60 days from today. It is also pertinent to mention here that the cheque amount in question is huge

i.e. Rs. 10,74,000/- and in case accused is found guilty, this court is of the view that punishment of more than one year may be awarded, hence, this case should not be tried summarily and it should be tried as summons case. Entire complainant evidence be concluded on next date of hearing and payment of interim compensation amount be made on next date of hearing.....”

3. Learned counsel for the petitioner submits that since no detailed reasons have been assigned in the impugned order for directing the petitioner to deposit 20% of the cheque amount, the same is unsustainable particularly in view of ratio of judgment of Hon’ble Supreme Court rendered in Rakesh Ranjan Shrivastava Versus The State of Jharkhand & another, 2024(2) R.C.R. (Criminal) 279. Learned counsel has placed reliance upon para No.16 of the aforesaid judgment, which is reproduced hereinunder:

“16. When the court deals with an application under Section 143A of the N.I. Act, 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 under subsection (1) of Section 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a

plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.”

4. This Court has considered the aforesaid submissions.
5. A perusal of complaint would indicate that it is a case where the complainant alleges that the petitioner had entered into an agreement for sale of land to the complainant and in respect of which he had received an amount of Rs.10,74,000/- by way of cheques. It is also alleged that as a matter of fact it transpired that the petitioner was not even owner of the land and there was merely an agreement in his favour. Since the sale deed was not executed within the stipulated time, it had been agreed amongst the parties that the earnest money be returned to the complainant. The petitioner accordingly issued cheques to return the earnest amount, which came to be dishonoured.
6. The aforesaid facts indicate that specific and crisp allegations have been levelled by the complainant, wherein the details of payments earlier made by the complainant have also been clearly described and the said payment was made by way of cheques. Under these circumstances, upon the petitioner having failed to execute the sale deed and having issued the cheques in question to return the earnest amount, which came to be dishonoured, a *prima facie* case is made out to proceed against the petitioner under Section 138 of Negotiable Instruments Act. The Trial Court in its order has specifically recorded that the accused has not furnished any explanation whatsoever as to how the cheques in question came into the hands of the

complainant. As such, this Court finds that it is indeed a case where directions could have been issued for deposit of 20% of the cheque amount as have been issued by learned Trial Court. The impugned order is not found to be suffering from any infirmity to warrant any interference. The instant petition is sans merit and is hereby dismissed.

23.4.2024
Pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No