

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19658-2024

DECIDED ON: 22.04.2024

RAHIS

.....PETITIONER

VERSUS

AAMNA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Vinay Kumar Pandey, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of impugned order dated 05.02.2024 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Nuh in a complaint No. NI-42-2023, dated 09.02.2023 (Annexure P-4) filed under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'Act') whereby, an application of the respondent under Section 143-A of the Act has been allowed and the petitioner was directed to pay a compensation to the tune of 20% of the cheque amount i.e. Rs.2,00,000.

2. It has been contended by learned counsel for the petitioner that the trial Court while passing the impugned order (Annexure P-7) has not taken into considered the argument raised by the petitioner in toto and without even recording the reasons went to award the interim compensation, which is in violative of the directions issued by the Apex Court in “*Rakesh Ranjan Shrivastava vs. State of Jharkhand*”; 2024 (2) RCR (Criminal) 2379 as well as of the judgment rendered by this Court in “*Anil Kumar R vs. Rishav Exports*”; CRM-M-17076-2019, decided on 29.04.2023.

3. Having argued at length, at this stage, this Court is of the opinion that though reply to application under Section 143-A of the Act was filed by the accused-petitioner, which is on record as Annexure P-6A but defence of the accused while adjudicating the application for interim compensation has not been addressed. Since, it is the mandate of law and the intent of Legislature under Section 143-A of the Act itself. The Court has to cautiously *prima-facie* evaluate the merits of the case made out by the complainant while deciding the issue of interim compensation, which can be granted only if the complainant makes out a *prima-facie* case.

4. In the light of above, the order dated 05.02.2024 (Annexure P-7) is set aside and the case is remanded back to the trial Court for adjudicating it afresh in the light of the afore-said judicial pronouncements wherein, law has been duly enunciated.

5. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

22.04.2024
Sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>