



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.24216 of 2024
Date of decision: 14th May, 2024

Madhur Fabrics

... Petitioner

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Pooja Jaglan, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is impugning order dated 30.01.2024 (Annexure P-2) passed by the learned Additional Sessions Judge (FTC) Panipat in CRA-36-2024 pertaining to Criminal Complaint No.NACT 3031/2018 dated 03.10.2018 under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act'), vide which he had been directed to deposit 20% of the amount of compensation awarded by the learned trial Court vide order of sentence dated 03.01.2024.

2. Learned counsel appearing on behalf of the petitioner, while inviting attention of this Court to the impugned order which has been annexed as Annexure P-2, has vehemently submitted that it suffers from material irregularity and on the face of it is a non-speaking order inasmuch as the petitioner was directed to deposit 20% of the amount of compensation without assigning any cogent reason; more so,



since the provisions of Section 143-A of the Act were directory in nature and not mandatory. In support, learned counsel has placed reliance upon *Dharmpal and another Versus Om Parkash*'2022 (2) *RCR (Criminal)* 621.

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. It would be relevant to observe here that the provisions of Section 143-A of the Act in view of the usage of the expression 'may' therein, is not mandatory but is directory in nature. Section 143-A of the Act confers discretion upon the trial Court to award interim compensation to a maximum extent of 20%, therefore, the discretion has to be exercised by the Court concerned in a judicious manner after considering and appreciating the facts and circumstances of each case and still further, since as already observed hereinabove the provisions are directory in nature, the Court concerned must assign sufficient reasons while the passing of the order awarding interim compensation.

5. At this stage, learned counsel for the petitioner submits that the matter may be remanded back to the learned appellate Court for a fresh decision on the application moved under Section 389 of the Cr.P.C.

6. Adverting to the case in hand, a perusal of the impugned order reveals that the learned appellate Court has nowhere assigned any



reason from which it could be even remotely discerned that the Court while passing the impugned order had applied its judicial mind in the facts and circumstances of the case.

7. In the facts and circumstances as enumerated hereinabove, the impugned order dated 30.01.2024 (Annexure P-2) is hereby set aside and the matter is remanded back to the appellate Court concerned to decide the application afresh under Section 389 of the Cr.P.C., in accordance with the provisions of law, by passing a speaking order, and without being influenced by anything observed hereinabove. The learned appellate Court concerned shall make earnest efforts to decide the application under Section 389 Cr.P.C. at the earliest, preferably within a period of two weeks from the date of receipt of a certified copy of this order.

8. The petition stands disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

May 14, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No