



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

131

CRM-M-23748-2024
Date of decision: May 13th, 2024

Buta Singh

.....Petitioner

Versus

Yadwinder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harpreet Singh Mann, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is impugning order dated 28.11.2023 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Faridkot, in Criminal Complaint No.NACT 504 of 2020 dated 02.09.2020 titled as 'Yadwinder Singh Versus Parvinder Singh and another' filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act'), wherein he had been directed to pay interim compensation to the extent of 20% of the cheque amount under Section 143-A of the Act, revision against which preferred by the petitioner was also dismissed by the learned Sessions Judge vide order dated 19.02.2024.

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 pay interim compensation to the extent of 20% 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 trial Court for a fresh decision on the application moved under Section 143-A of the Act for award of interim compensation.

6. Adverting to the case in hand, a perusal of the impugned order reveals that the trial 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 28.11.2023 (Annexure P-2) is hereby set aside

and the matter is remanded back to the trial Court concerned to decide the application afresh under Section 143-A of the Act, in accordance with the provisions of law, by passing a speaking order, and without being influenced by anything observed hereinabove. The trial Court concerned shall make earnest efforts to decide the application under Section 143-A of the Act 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.

May 13th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No