



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

CRM-M-45239-2024

Date of decision: 12.09.2024

M/s Janki Dass & Sons and Another

...Petitioners

Versus

P.K. Traders and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sanjeev Sharma, Advocate for the petitioners.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS, 2023 seeking setting aside of impugned order dated 27.03.2024 (Annexure P-7) passed by the Court of Additional Sessions Judge, Ludhiana vide which order dated 10.06.2022 (Annexure P-5) passed by the Court of Sub Divisional Judicial Magistrate, Ludhiana in complaint No.NACT-347-2021 dated 28.09.2021 (Annexure P-1), was set aside.

2. The brief facts of the case are that petitioners/complainants filed criminal complaint under Section 138 NI Act against the respondents wherein an application filed by the petitioners under Section 143-A NI Act was allowed vide order dated 10.06.2022 (Annexure P-5) and the respondents were directed to deposit 20% of the cheque amount as interim compensation to be paid to the complainants within next 60 days.

3. The respondents/accused, being not satisfied, filed revision petition against the aforesaid order and the said revision petition was allowed and order dated 10.06.2022 (Annexure P-5) was set aside by the



Court of Additional Sessions Judge, Ludhiana vide order dated 27.03.2024 (Annexure P-7).

4. The complainant being not satisfied have challenge the order (Annexure P-7) passed by the revisional Court, in the present petition.

5. I have heard the counsel for the petitioners/complainants.

6. As per the law laid down by Hon'ble Supreme Court in its decision in criminal appeal No.741-2024 titled ***Rakesh Ranjan Shrivastava Vs. State of Jharkhand and Another***, decided on 15.03.2024, the provision of sub-section (1) Section 143-A is discretionary and not mandatory. The word 'may' used in the provision cannot be construed as 'shall'. The Hon'ble Supreme Court in ***Rakesh Ranjan Shrivastava's case*** (supra) further observed as follows:-

c. The broad parameters for exercising the discretion under Section 143A are as follows:

i. 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. The financial distress of the accused can also be a consideration.

ii. A direction to pay interim compensation can be issued, only if the complainant makes out a *prima facie* case.

iii. If the defence of the accused is found to be *prima facie* plausible, the Court may exercise discretion in refusing to grant interim compensation.

iv. If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.

v. There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.

7. From the perusal of order (Annexure P-7), it is apparent that revisional Court while dismissing the application filed by the petitioners under Section 143-A NI Act, while accepting the revision petition, had not given direction to the trial Court to decide the said application under



Section 143-A NI Act afresh, in accordance with law. To that extent, the order (Annexure P-7) passed by the revisional Court is modified.

8. It being so, direction is hereby given to the learned trial Court to decide the application filed by the petitioners under Section 143-A NI Act for grant of interim compensation afresh, in the light of the law laid down by Hon’ble Supreme Court in **Rakesh Ranjan Shrivastava’s case** (supra), after giving opportunity of hearing to both the parties. The petitioners are directed to appear before the learned trial Court on the date already fixed in the trial.

9. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

12.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No