

GURINDER KAUR

V/S

PARMINDER SINGH

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

None for the respondent.

HARPREET SINGH BRAR J. (ORAL)

2. Briefly, the facts of the present case are that the petitioner-accused availed a loan of Rs.5,00,000/- from respondent-complainant, in the first week of May, 2021. To discharge her liability, the petitioner-accused issued a cheque bearing No.000026 dated 07.07.2021 for Rs.5,00,000/-. However, on presentation for encashment, the said cheque was dishonoured vide memo dated 08.07.2021 with the remarks 'funds insufficient.' A legal notice was

served on the petitioner on 14.07.2021, to call upon him to make the payment, which was intentionally not received by the petitioner. The petitioner failed to make the requisite payment in the stipulated time, so the instant complaint was filed and the petitioner was summoned to face trial under Section 138 of the NI Act vide order dated 01.12.2021. Vide impugned order dated 28.08.2023, notice of accusation was served on the petitioner, to which she pleaded not guilty and claimed trial. In the same order, the petitioner was directed to pay 20% of the cheque amount as interim compensation under Section 143-A of the NI Act, within a period of 60 days.

3. Learned counsel for the petitioner *inter alia* contends that the impugned order is not sustainable in the eyes of law, as the trial Court has acted in a mechanical manner and passed the impugned order, without assigning any cogent reasons. The power under Section 143-A of the NI Act has been unjustly invoked at the threshold, before the respondent/complainant has even proved that the cheque in question was issued by the petitioner to make her liable for an offence under Section 138 of NI Act. Learned trial Court has also failed to consider that the provisions of Section 143-A of the NI Act are directory in nature, not mandatory.

4. Having heard learned counsel for the petitioner and perusing the record, it transpires that the respondent had filed an application filed before the learned trial Court praying for interim compensation amounting to 20% of the cheque amount, under Section 143-A of the NI Act. The sole ground pleaded by the petitioner is that the impugned order is baseless and liable to be dismissed as the provisions of Section 143-A of the NI Act are not mandatory in nature.

5. A perusal of the record indicates that the petitioner has pleaded not guilty to the notice of accusation served on her, as such the necessary

condition for invoking Section 143-A of the NI Act, as reiterated by the Hon’ble Supreme Court in *Pawan Bhasin v. State of U.P. and another 2023 SCC Online SC 1314*, has been met. The provisions of Section 143-A of the NI Act are incorporated only to mitigate harassment to the complainant, on interim basis, during the pendency of the trial. No prejudice is being caused to the petitioner, by imposing condition of payment 20% of the total cheque amount as interim compensation. Further, in case, the petitioner is acquitted on conclusion of the trial, the respondent would be legally obligated to return the amount awarded as interim compensation to her along with interest. Moreover, in the absence of any specific ground taken by the petitioner, this Court finds no reason to interfere in the impugned order dated 28.08.2023 (Annexure P-3).

6. In view of the discussion above, the present petition is dismissed and impugned order dated 28.08.2023 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Malerkotla is upheld.

March 11, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No