

C.R.R. 2664 of 2022

With
IA No. CRAN 4 of 2023
Lalu Mirdya @ Midya
Vs.
Krishna Gopal Gorai

Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury

...For the Petitioner

Mr. Saptarshi Banerjee

...For the Opposite Party

Re.: IA No. CRAN 4 of 2023

This is an application wherein the petitioner has challenged the order dated 16th June, 2022 passed by the learned Judicial Magistrate, 2nd Court at Bolpur, District – Birbhum in connection with C. Case No. 523 of 2018. By the impugned order, learned Court below allowed the complainant's prayer under Section 143A of the Negotiable Instruments Act and thereby directed the petitioner to made over 10% of the Cheque amount, which is amounting to Rs. 1,80,000/- to the complainant as interim compensation.

Being aggrieved by that order learned Counsel appearing on behalf of the petitioner submits that the petitioner is a business man, he used to sign many cheques for his business transactions and sometimes without the name of the bearer of the cheque and amount as well as other particulars and those cheques were kept in the office of the petitioner's business unit. The opposite party/complainant herein have taken away the cheque which was not known to the petitioner and thereafter in his utter surprise he received the notice under Section 138(2) of the N.I. Act and thereafter the complainant has lodged complaint contending that a cheque amount of Rs. 18 lakhs allegedly

issued by the accused has got dishonoured.

In the midst of such proceeding complainant filed an application under Section 143A of the N.I. Act, wherein the petitioner prayed for granting 20% towards interim compensation and after hearing the parties Court below passed the impugned order.

Petitioner's contention is that the order impugned is not sustainable in the eye of law in view of the fact that the complainant has failed to make out any case before the Court below. The Court below ought not to have granted any interim compensation pre-judging the case and as such the payment of interim compensation under Section 143A of the N.I. Act is not maintainable. Accordingly, he prayed for setting aside the order impugned.

Learned Counsel appearing on behalf of the opposite party raised objection contending that the prayer was made before the Court below for granting 20% of the cheque amount as the said proceeding involves a legally enforceable debt amount to Rs. 18 lakhs. However, the Court below has granted only 10% of the said amount which does not call for any interference invoking jurisdiction under Section 482 of the Code of Criminal Procedure.

I have considered the submissions made on behalf of both the parties. This Court while admitting the application was pleased to direct the petitioner to deposit a sum of Rs. 1,00,000/- in the Trial Court within 10 days from the date of passing the said order.

Learned Counsel for the petitioner submits that in compliance of the said interim order he has already deposited Rs. 1,00,000/- before the Trial Court.

Having considered the submissions made on behalf of both the parties, the application, being C.R.R. 2664 of 2022 along with the application, being IA No. CRAN 4 of 2023 are hereby disposed of with a direction upon the petitioner/accused person to deposit Rs. 40,000/- more to the Court below within a period of four weeks from date. On such deposit by the petitioner/accused person, the Trial Court will make every endeavour for expeditious disposal of the proceeding initiated under Section 138 of the N.I. Act.

Urgent Photostat certified copy of this order, if applied for be given to the parties, on priority basis, upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)