

**CRR-856-2019 (O&M)****1****264****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-856-2019 (O&M)
Date of Decision: 23.01.2025****RAJESH RANA****...Petitioner****Versus****TEJBIR SINGH MALIK****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Anil Kumar Rana, Advocate
for the petitioner.***********Harpreet Singh Brar, J. (Oral)**

1. Present revision petition has been filed against the order of learned SDJM, Kalka dated 23.01.2019 and 06.03.2019 vide which petitioner has been directed to deposit 20% amount of the cheque before the learned Court in compliance of new amendment introduced in Negotiable Instruments Act.
2. Learned counsel for the petitioner *inter alia* contends that complaint(supra) was instituted against the petitioner on 08.05.2017 and the learned Sub Divisional Judicial Magistrate, Kalka vide impugned orders dated 23.01.2019 and 06.03.2019 has directed the petitioner to deposit 20 % of the cheque amount in view of amendment made in Section 143(A) of Negotiable Instruments Act. The aforementioned amendment was made by the Ministry of Law and Justice vide notification dated 02.08.2018 as discernible from Annexure P-2. As such, learned trial Court fell into grave error by imposing the condition under the amended provisions in a complaint case under Section 138 of NI Act, which was instituted prior to the notification Annexure P-2. The newly added provision of Section 143(A) has not specifically made the



implication of the same retrospectively and in new publication is cast upon the accused, which is substantive in nature.

3. Office report indicates that notice has been served to the respondent, but he has refused to put his signature. Thus, this Court is left with no option but to decide the present case on its own merits.

4. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that such amended provisions would not be applicable to the trial in pending cases and further the new obligation imposed upon the petitioner is not merely procedural but it is substantial in nature and it clearly affects the substantive rights of the petitioner. Therefore, it cannot be applied retrospectively. Further the Hon'ble Supreme Court in *Anil Kumar Goel Vs. Krishan Chand Kaura* 2008(8) RCR (Criminal) 290 has categorically held that any provision, which is substantive in nature would not be applicable to the trial of pending cases. Thus, the provision of Section 143(A) cannot be made applicable retrospectively to the cases which are pending on the date of the enforcement of the provision and admittedly the complaint(supra) was instituted on 08.05.2017 and the amendment was carried out on 02.08.2018. Further, the notification of the amendment also does not specify any other date for the amendment to come into operation, nor it has been expressly provided that it would be applicable to all the pending cases. It is a trite law that unless it is expressly provided, applicability of the amended provision would only be from the date of the notification i.e. 02.08.2018 and as such, in view of the legislative mandate, retrospective application of these provisions is not permissible.

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5. In view of the above, impugned orders dated 23.01.2019 and 06.03.2019 vide which petitioner has been directed to deposit 20% amount of the cheque before the learned Court are hereby quashed.

(HARPREET SINGH BRAR)
JUDGE

23.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>