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

CRM-M-26439-2025

Date of decision :16.05.2025

M/s Grace Impex and another

.....Petitioners

Versus

M/s Shivalik Industries

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Manuj Nagrath, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of order dated 02.05.2025 (Annexure P-9), passed by Ld. trial Court, whereby the petitioners are directed to pay 20% of cheque amount under Section 143-A of Negotiable Instrument Act, in complaint case bearing NACT No.6628 of 2020 instituted on 06.10.2020 titled as '**M/s Shivalik Industries Regd. Vs. M/s Grace Impex, Ganpati Estate and others**' filed by the complainant, which is illegal and perverse and is liable to be set aside. Further prayer has been made for staying the impugned order dated 02.05.2025.

2. Learned counsel for the petitioner has stated that petitioner was prosecuted in a complaint under Section 138 of the Negotiable Instruments Act. He submits that the learned trial Court vide order dated 02.05.2025 has directed the petitioner to pay 20% of the total cheque amount which comes out to be Rs.1,80,000/- as interim compensation to the complainant within a period of 60 days as per clause (4) of Section



143-A. He has further submitted that the Court has not appreciated the merits of the defence pleaded by the petitioner in his reply to the application and there was no prima facie case in favour of the complainant and as such the direction issued by the trial Court for payment of interim compensation to the tune of Rs.1,80,000/- being 20% of the total cheque amount is without any basis and is liable to be set aside. Further the petitioner in his reply had specifically stated that the cheques in question were not issued in the discharge of any legal liability and as such the Court without appreciating the defence taken by the petitioner ordered for payment of the interim compensation to the complainant. He has relied upon the judgment titled as **'Rakesh Ranjan Shrivastava Vs. The State of Jharkhand and another passed in Criminal Appeal No.741 of 2024 decided on 15.03.2024'** and has stated that in case the defence of accused is found to be *prima facie* plausible, the Court may exercise discretion in refusing to grant compensation but in the present case the learned trial Court has not even discussed the defence of the petitioner.

3. Heard.

4. A perusal of the order dated 02.05.2025 shows that the learned trial Court has not even discussed the defence of the petitioner. With the aid of Section 143-A of NI Act by passing the impugned order the trial Court directed the petitioner to pay 20% of the cheque amount (9 lacs) which comes to Rs.1,80,000/- as interim compensation to the complainant. Before directing the payment of interim compensation the Court is required to evaluate the merits of the case made by the complainant and also the merits of the defence pleaded by the accused in his reply and the presumption under Section 139 of the NI Act itself is not



a ground to grant the interim compensation as the presumption is rebuttable in nature. In the present case, the learned trial Court has not evaluated the defence of the petitioner and has also not uttered a word regarding the existence of the prima facie case in favour of the complainant. The Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava's** case (supra) has held as under:-

“When the court deals with an application under [Section 143A](#) of the N.I. Act, 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 under sub-section (1) of Section 143A. The presumption under [Section 139](#) of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors’.



Thus, it is clear that the trial Court is required to evaluate the merits of the case of both the sides and the presumption under Section 139 of NI Act is not a ground to direct the payment of interim compensation as it is a rebuttable presumption and the learned trial Court is required to consider certain facts (detailed above) as held by Hon’ble Supreme Court in ***Rakesh Ranjan Shrivastava’s*** case (supra) before ordering the grant of interim compensation.

5. Keeping in view the above said facts, the present petition is allowed and order under challenge dated 02.05.2025 is set aside and the learned trial Court is directed to reconsider the question of grant of interim compensation to the complainant in the light of discussions made above as well as the observations of Hon’ble Supreme Court in the above cited case and decide the same within a period of one month from the date of receipt of copy of this order.

6. The office is directed to send a copy of this order to the learned trial Court forthwith.

16.05.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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