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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CRL.M.C. 2146/2025 & CRL.M.A. 9589/2025, CRL.M.A. 9590/2025, CRL.M.A. 9621/2025**

INDARJIT SINGH .....Petitioner

Through: Ms. Aishwarya Dobhal and Mr. Albar Qureshi, Advs.

versus

HARMEET SINGH REKHI & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **02.04.2025**

1. The present petition is filed challenging the order dated 05.09.2024 (‘**impugned order dated 05.09.2024**’) passed by the learned Additional Sessions Judge (‘**ASJ**’), Saket Courts, New Delhi in Crl. Rev. 55/2024, whereby the revision petition filed by the petitioner assailing the order dated 02.11.2023 (‘**impugned order dated 02.11.2023**’) passed by the learned Metropolitan Magistrate (‘**MM**’), Saket Courts, Delhi in Complaint Case No. 3205/2019, was dismissed.

2. By the impugned order dated 02.11.2023, the learned MM directed the petitioner to pay interim compensation under Section 143A of the Negotiable Instruments Act, 1881(‘**NI Act**’) to the extent of 20% of the cheque amount, amounting to ₹14,60,000/-, within 60 days. Aggrieved by both orders, the petitioner has preferred the present petition.

3. Briefly stated, the respondent/complainant filed a complaint under Section 138 of the NI Act, alleging that the petitioner, who is the proprietor of a business named Babaji

Printpack, had approached him between 2014 and 2017 seeking financial assistance for his business needs. Relying on the petitioner's representations, the complainant advanced a total sum of ₹73,00,000/- through multiple bank transfers— ₹45,50,000/- between 01.07.2015 and 03.07.2017, and ₹27,50,000/- between 04.07.2017 and 20.08.2017. The complainant further alleged that a promissory note dated 03.03.2017 was executed by the petitioner acknowledging the outstanding liability with an agreed interest of 2.5% per month, and that the petitioner entered into a further agreement on 03.07.2017 confirming the total dues and committing to pay ₹1,82,500/- per month.

4. Upon repeated requests for repayment, the petitioner issued three cheques drawn on State Bank of Patiala — Cheque No. 740339 for ₹17,06,500/- (interest component), and Cheques No. 740340 and 740341 for ₹25,00,000/- and ₹48,00,000/- respectively towards the principal amount. All three cheques were dishonoured upon presentation with remarks such as 'Refer to Drawer' and 'Other reasons'. A legal notice dated 04.02.2019 was sent by the complainant, which was duly served, but the petitioner failed to make payment within the statutory period. Consequently, the complaint under Section 138 of the NI Act was filed, along with an application under Section 143A of the NI Act seeking interim compensation.

5. The learned MM by the impugned order dated 02.11.2023, allowed the application and directed the petitioner to pay interim compensation of ₹14,60,000/- (i.e., 20% of the principal cheque amount of ₹73,00,000/-) within a period of 60 days. The said order was upheld by the learned ASJ *vide* impugned order dated 05.09.2024, rejecting the petitioner's revision petition.

6. The learned counsel for the petitioner submits that the impugned orders passed by the learned MM as well as the learned ASJ are legally unsustainable and liable to be set aside. She submits that the learned courts below failed to appreciate that the cheques in question were issued merely as security and not towards discharge of any legally enforceable debt or liability. She contends that the respondent has misused the said cheques with *mala fide* intent, despite the petitioner having repaid the substantial part of the alleged loan amount.

7. She submits that out of the total sum of ₹73,00,000/-, a significant portion, i.e., ₹45,50,000/-, was transferred into the account of a different entity—Apple Printpack—which is not owned or operated by the petitioner, but by his wife, Harjeet Kaur. Therefore, the learned counsel argues that the petitioner cannot be held liable for such amounts.

8. She submits that the bank statements relied upon by the respondent do not establish any direct financial transactions between the petitioner and the complainant, but rather show transactions between the petitioner and one Kanwaljeet Kaur, w/o Mr. H.S. Rekhi, thereby casting serious doubt on the complainant's claim and locus. The petitioner asserts that he had already repaid an amount of ₹33,73,266/- to the respondent through banking channels and in cash, a fact which has been admitted by the respondent himself during arguments. However, the learned Trial Court failed to take this crucial fact into consideration while directing payment of interim compensation under Section 143A of the NI Act.

9. She further submits that the discretion exercised by the learned Courts below under Section 143A of the NI Act was arbitrary and in violation of settled legal principles.

10. I have heard learned counsel for the petitioner and perused the record including the impugned orders dated 02.11.2023 and 05.09.2024 passed by the Courts below, respectively.

11. The first issue that falls for the consideration of this Court is whether the petitioner having already availed the remedy of revision should be allowed to take recourse to Section 528 of the BNSS [*analogous to Section 482 of the Code of Criminal Procedure, 1973* ('**CrPC**')] as a substitute for initiating a second revisional challenge which is clearly barred under Section 438(3) of the BNSS [*analogous to Section 397(3) of the CrPC*] which reads as follows:

> "*(3) If an application under this section has been made by any person either to the High court or to the Sessions Judge, no further application by the same person shall be entertained by the either of them.*"

12. At the outset, it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 397 of the CrPC, the inherent power of this Court under Section 482 of the CrPC has a wide ambit and can be exercised in the interest of justice. It is settled law that the power under Section 482 of the CrPC is to be exercised cautiously and sparingly, especially when Sessions Judge has already exercised revisional power under Section 397 of the CrPC. The Hon'ble Apex Court, in the case of ***Krishnan v. Krishnaveni* : (1997) 4 SCC 241**, had observed as under:

> "***8.*** *The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice.* ***In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when***

the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order."

(emphasis supplied)

13. The principal challenge raised in the present petition pertains to the direction for payment of interim compensation under Section 143A of the NI Act to the tune of ₹14,60,000/-, being 20% of the amount covered by two dishonoured cheques issued by the petitioner towards the principal liability.

14. Section 143A of the NI Act which came into force with effect from 1st September, 2018 reads as under:

> *"**143A. Power to direct interim compensation**. —(1) Notwithstanding anything contained in the Criminal Procedure Code, 1973, the Court trying an offence under section 138 **may** order **the drawer of the cheque** to pay interim compensation to the complainant—*
>
> *(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and*
>
> *(b) in any other case, upon framing of charge.*
>
> *(2) The interim compensation under subsection (1) shall not exceed twenty per cent. of the amount of the cheque.*
>
> *(3) The interim compensation shall be paid within sixty days from the date of the order under subsection (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.*
>
> *(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.*
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> *(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Criminal Procedure Code, 1973 (2 of 1974).*

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Criminal Procedure Code, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section."

(Emphasis supplied)

15. *Inter alia* the learned Trial Court observed to the effect that even if it is assumed that Section 143A of the NI Act is discretionary in nature, the Court is still clothed with the powers to grant interim compensation to the complainant, after providing sufficient reasons. The learned Trial Court observed to the effect:

"8. Perusal of the file reveals that in the present matter, the cheques in favour of the complainant drawn on State Bank of Patiala, payable at New Delhi towards payment of the principal amount of Rs. 73 Lacs and Rs. 17,06,500/- towards interest amount till December, 2018 vide cheques No. "740339" drawn on 03.01.2019 qua Rs. 17,06,500/- as interest amount, and No. "740340" drawn on 25.01.2019 qua Rs. 25 Lacs as principal amount and No. "740341" drawn on 25.01.2019 qua Rs. 48 Lacs as principal amount, however, upon presentation, the abovesaid.......

11. In view of the above, this court deems it fit that interim compensation can only be ordered qua two cheques i.e. No. "740340" and "740341" for an amount of Rs. 25 Lacs and Rs. 48 Lacs respectively qua the principal amount of Rs. 73 Lacs advanced as loan and not for the third cheque No. "740339" for an amount of Rs. 17,06,500/- as the same was not a debt/existing liability but computed as interest. Interest, if any due to the complainant is a subject matter of trial which has to be proved by leading evidence. Also, at this stage, this court is not inclined to believe the bald assertion of the accused that entire amount mentioned on cheques has been returned to the complainant in cash as no acknowledgment receipt qua the cash payment was taken by the accused. However, complainant has admitted at the stage of arguments that accused had made bank transfers intermittently between 2014 till 2018 amounting to about Rs.33,73,266/- approximately. Accused has pleaded that complainant was a relative due to which accused did not doubt the complainant and did not take back the cheques even after making the cash payment.

12. Accordingly, let 20% compensation qua cheques No. "740340" and "740341" be awarded to the complainant which is to be paid by the drawer of the cheques as envisaged in Section 143-A NI Act which is accused in the present matter.

13. Accused is directed to pay interim compensation to the complainant to the tune of 20% of the cheques No. "740340" *and "740341" which cumulatively amount to Rs. 14,60,000/- within sixty days from today."*

16. The law regarding grant of interim compensation under Section 143A of the NI Act is well settled. The Hon'ble Apex Court in ***Rakesh Ranjan Shrivastava v. State of Jharkhand*** **: (2024) 4 SCC 419** considered the factors while exercising discretion under Section 143A of the NI Act and held as under :

> *"**22.** When the court deals with an application under Section 143-A of the NI 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 143-A. The presumption under Section 139 of the NI 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."*

17. In the present case, a perusal of the complaint and the impugned orders indicates that the complainant had advanced a sum of ₹73,00,000/- to the petitioner over a period of time, allegedly supported by a promissory note dated 03.03.2017 and an agreement dated 03.07.2017, both of which record an acknowledgment of liability and the agreed schedule of repayments. In discharge of the said liability, the petitioner admittedly issued three cheques, of which two, bearing amounts of ₹25,00,000/- and ₹48,00,000/- respectively, pertain to the principal amount. These cheques were dishonoured upon presentation with remarks such as 'Refer to Drawer', and a legal notice was issued by the complainant within the stipulated time.

18. The learned MM, while passing the impugned order dated 02.11.2023, rightly observed that the accused had admittedly issued the cheques in question and did not dispute the dishonour

of the same. The learned MM also took note of the fact that the cheques pertained to repayment of the principal amount of ₹73,00,000/-, which the complainant claimed to have advanced by way of documented bank transfers. While exercising discretion under Section 143A of the NI Act, the learned MM appropriately restricted the grant of interim compensation to only the principal component and excluded the interest cheque from its purview. The learned MM further reasoned that the accused had failed to substantiate his defence regarding alleged cash repayments or recovery of the cheques, thereby justifying the direction to pay 20% of the principal amount as interim compensation.

19. The learned ASJ, while passing the impugned order dated 05.09.2024, rightly dismissed the revision petition challenging the impugned order dated 02.11.2023. The learned ASJ noted that the learned MM had considered all relevant material, including the admissions made by the petitioner at the stage of notice under Section 251 of the CrPC, and had drawn a *prima facie* inference in favour of the complainant.

20. As rightly held by the learned ASJ, once the accused has admitted issuance of cheques and their dishonour is not disputed, the statutory presumption under Section 139 of the NI Act comes into operation. The question of whether the cheques were issued in discharge of an enforceable liability or only as security is a matter for trial and does not, by itself, preclude the grant of interim compensation under Section 143A of the NI Act. At this stage, the learned Trial Court was not required to conclusively adjudicate the merits of the defence, but only to assess whether a *prima facie* case existed and whether there were plausible reasons to deny interim relief to the complainant. The revisional

court found no perversity or legal infirmity in the exercise of discretion by the learned MM and held that the direction to pay interim compensation did not suffer from any perversity. Accordingly, the learned ASJ upheld the order of the learned Metropolitan Magistrate, finding no merit in the petitioner's revision.

21. What clearly emerges is that the learned counsel for the petitioner seeks to advance arguments on the merits of the case—issues which are best left to be adjudicated during the course of trial. At this stage, such contentions cannot be entertained.

22. In the instant case, this court is of the opinion that no exceptional circumstances have been presented to warrant the exercise of its extraordinary jurisdiction under Section 528 of the BNSS. There is no indication of any miscarriage of justice or legal irregularity in the proceedings undertaken by the two lower courts, and the petitioner has not been able to point out any such deficiencies.

23. In view of the above, I find no infirmity in the impugned orders and the same cannot be faulted with.

24. The petition is therefore dismissed. Pending application(s), if any, stand disposed of.

AMIT MAHAJAN, J

APRIL 2, 2025