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

+ **CRL.M.C. 2147/2025 & CRL.M.A. 9591/2025,**
CRL.M.A. 9592/2025, CRL.M.A. 9593/2025

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

versus
HARMEET SINGH REKHIRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **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. No. 54/2024, 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'**) in Complaint Case No. 3200/2019, 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 ₹1,40,000/-, 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, being the proprietor of M/s Apple Printpack, had

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approached him in the year 2017 seeking financial assistance. On the petitioner's representations, the complainant advanced a sum of ₹7,00,000/- to the petitioner in tranches through bank transfers during the period July to September, 2017. In support of the loan, the petitioner allegedly issued three cheques towards repayment—two for the principal sum (₹5,00,000/- and ₹2,00,000/-) and one for ₹3,15,000/- towards accrued interest. All three cheques were dishonoured upon presentation with the endorsement 'Funds Insufficient'. A legal notice dated 23.02.2019 was issued and duly received, but the petitioner failed to make payment within the statutory period. Consequently, complaint under Section 138 of the NI Act was filed along with an application under Section 143A of the NI Act seeking interim compensation.

4. The learned MM, by the impugned order dated 02.11.2023, allowed the application and directed the petitioner to pay interim compensation of ₹1,40,000/- within a period of 60 days. The said order was upheld by the learned ASJ *vide* the impugned order dated 05.09.2024, rejecting the petitioner's revision petition.

5. 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.

6. She further submits that the discretion exercised by the

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learned Courts below under Section 143A of the NI Act was arbitrary and in violation of settled legal principles.

7. 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.

8. 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.”

9. 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)

10. 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 ₹1,40,000/-, being 20% of the amount covered by two dishonoured cheques issued by the petitioner towards the principal liability.

11. 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.

(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)

12. *Inter alia*, the learned Trial Court observes to the effect that even if it is assumed that Section 143A of the NI Act, 1881 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 bearing No. “000867” drawn on 03.01.2019 qua Rs. 5 Lacs as principal, and No. “000869” drawn on 04.02.2019 qua Rs. 2 Lacs as principal and No. “000870” drawn on 11.02.2019 qua Rs. 3.15 Lacs as interest, were dishonoured upon presentation vide return memos dated 18.02.2019, 05.02.2019 and 12.02.2019 respectively with the reasons / remarks “Funds Insufficient” i.e. after the provision of 143A had come into existence. The notice has been framed upon the accused.

9. In the present matter, the return memo states the reason for dishonour of cheque as “Funds Insufficient” and the accused has not disputed the genuineness of the return memo.

10. It is pertinent to note that out of the three cheques, it is the case of the complainant that cheques No. “000867” and “000869” for an amount of Rs. 5 Lacs and Rs. Lacs respectively qua the principal amount of Rs. 7 Lacs. On the other hand, cheque No. “000870” for an amount of Rs. 3.15 Lacs is qua the interest @2.5% per month. However, it is the case of the complainant that Rs. 7 Lacs were advanced as debt / loan to the accused between the period 04.07.2017 to 16.09.2017 through bank transfer. Admittedly, Rs. 7 Lacs was the existing liability arising from the loan advanced to the accused. However, the complainant has deposited three cheques for a total



amount of Rs. 10.15 Lacs after computing the interest calculated @2.5% per month till January/February, 2019. It is the defence of the accused that accused did not filled the particulars of the cheques and only issued three blank signed cheques as security. Accused has also stated that the cheques amount were returned to the complainant in cash but accused did not take back the cheques from the complainant nor took any acknowledgment receipt qua the cash payment made to the complainant.

11. In view of the above, this court deems it fit that interim compensation can only be ordered qua two cheques i.e. No. "000867" and "000869" for an amount of Rs. 5 lacs and Rs. 2 Lacs respectively qua the principal amount of Rs. 7 Lacs advanced as loan and not for the third cheque No. "000870" for an amount of Rs. 3.15 Lacs 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. 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 the cheques No. "000867" and "000869" 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 maintenance to the complainant to the tune of 20% of the cheques No. "000867" and "000869" which cumulatively amounts to Rs. 1,40,000/- within sixty days from today."

13. 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.”

14. In the present case, a perusal of the complaint and the impugned orders indicates that the complainant had advanced a sum of ₹7,00,000/- to the petitioner over a period of time, which, according to the complainant, was given pursuant to a request for financial assistance made by the petitioner for her proprietorship business, M/s Apple Printpack. The said amount was transferred through documented banking channels in three tranches between July and September 2017. In discharge of the said liability, the petitioner allegedly issued three cheques—two towards the principal amount of ₹5,00,000/- and ₹2,00,000/- respectively, and one towards interest of ₹3,15,000/-. All three cheques were dishonoured upon presentation with the remarks ‘Funds Insufficient’, and a legal notice was duly issued by the complainant on 23.02.2019, which was received by the petitioner.

15. The learned MM, while passing the impugned order dated 02.11.2023, rightly observed that the accused had admitted the issuance of the cheques in question and did not dispute their dishonour. The learned MM also noted that the cheques were issued towards repayment of the principal amount of ₹7,00,000/- which the complainant claimed to have advanced through verifiable 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.

16. 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.

17. 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

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revision.

18. 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.

19. 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.

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

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

AMIT MAHAJAN, J

APRIL 2, 2025