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

\+ CRL.REV.P.(NI) 232/2025 & CRL.M.A. 29626/2025

RAJVIR SINGH .....Petitioner

Through: Ms. Tejinder Kaur, Advocate

versus

SARVESH KUMAR .....Respondent

Through:

\+ CRL.REV.P.(NI) 233/2025

RAJVIR SINGH .....Petitioner

Through: Ms. Tejinder Kaur, Advocate

versus

UMESH KUMAR .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 06.10.2025

1. The present petitions under Section 397 of the Code of Criminal Procedure, 1973[1] assails the orders dated 27th August, 2025 passed by the JMFC (N.I.) Court-01, Saket District Courts, New Delhi in Complaint Case Nos. 832/2023 and 756/2023, dismissing the Petitioner's applications under Section 143A of Negotiable Instruments Act, 1881[2] seeking directions for payment of 20% of the cheque amount by the Respondents.

2. Since the grounds of challenge and the reasoning contained in the impugned orders are identical, this Court finds it appropriate to dispose of both the petitions by way of a common order.

3. The Petitioner/Complainant, had filed complaints against the

[1] "Cr.P.C."

respective Respondents alleging offences under Section 138 of NI Act.

4. In those proceedings, notices under Section 251 of Cr.P.C. were served upon the Respondents, who pleaded not guilty and faced trial. The cases have now reached the stage of the Complainant's evidence. The Complainant's witnesses have been examined, and the matter presently stands posted for their cross-examination.

5. In this backdrop, the Petitioner moved applications under Section 143A of NI Act seeking directions for payment of 20% of the cheque amount. The said applications have been dismissed by the impugned orders. Since the reasoning in both impugned orders is identical, for the sake of convenience, the rationale from the impugned order in *CRL.REV.P.(NI) 232/2025* is reproduced below:

> *"**In CRL.REV.P.(NI) 232/2025***
> *1. Vide this order, I shall dispose of the application u/s. 143A of the Negotiable Instruments Act, 1881 (hereinafter referred to as the NI Act) filed by the complainant for seeking 20% interim compensation in the case.*
> *2. Briefly, the case of the complainant is that in January, 2021, the accused approached the complainant and stated that he is in need of Rs.6,00,000/- for the purpose of registration of his house. Keeping in view the relations between the parties, the complainant on 30.01.2021, 16.04.2021 & 11.08.2021 gave Rs.2,00,000/- in cash, Rs.2,16,000/- through cheque and Rs.90,000/- in cash respectively. He also gave Rs.84,000/- in various installments. The amount was given after withdrawing the same from his bank account. After one year the complainant approached the accused and asked to return the amount. Accordingly, on 15.10.2022, the accused issued cheque bearing no. 086121 dated 15.10.2022 for Rs. 5,90,000/- drawn on Bank of India, Nehru Place Branch (hereinafter referred to as the said 'cheque in question') assuring that the same will get encashed on presentation. However, the same returned with remarks 'Funds Insufficient' vide return memo dated 04.11.2022. Consequently, the complainant vide legal notice dated 02.12.2022 asked the accused to pay the cheque amount, however, as the same was not paid by the*

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[2] "NI Act"

accused, the present complaint came to be filed.

3. The accused entered his appearance and on 09.09.2024, notice under Section 251 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC") was put to him, to which he pleaded not guilty and claimed trial. Notably, he admitted his signatures on the cheque in question but stated the following in his defence:

> *"I have signed the cheque in question. I have not filled the particulars on the same. I had received the legal demand notice. The cheque in question was given only for security purposes to the complainant as my brother Umesh Kumar and I together took a sum of Rs. 1,50,000/- of Rs. 2,00,000/- from the Complainant."*

4. In the application filed u/s l43A of the NI Act on behalf of the complainant, it has been contended that instant application ought to be· allowed inter alia as there is a prima facie case in favour of the complainant and the defence raised by the accused is sham and the same has been made with the intention to not make the payment.

5. Opportunity to file the reply was given to the accused, however, as the same was not filed, the right was closed vide order dated 08.07.2025.

6. Ld. Counsel for the complainant argued on the lines of his averments made in the application. Opportunity to advance the arguments was given to the accused.

7. Submissions heard. Record perused.

8. Section 143A of the NI Act was introduced vide the amendment Act No. 20 of 2018, and it came into effect from 01.09.2018. It reads as under:

> *Section 143A. Power to direct interim compensation.–(1) Notwithstanding anything contained in the code of Criminal Procedure, 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 sub-section (J) 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 sub-section (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 c:heque 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 orde1~ or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.*

*9. Recently Hon'ble Mr. Justice **Abhay S. Oka**, for a two-judge bench in the judgement of **Rakesh Ranjan Shrivastava Vs. State of Jharkhand & Anr. [Criminal Appeal No. 741 of 2024, decided on 15.03.2024**] stated that while deciding an. application u/s 143A of the NI Act, the court has to keep in mind various factors specifically that whether a prima facie case has been made out by the complainant or not vis-a-vis the defence set up by the accused. The relevant paragraph of the judgment is reproduced hereinunder for easy consideration:*

> *"16. 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 110 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.*
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> *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."*

10. In the present case, the defence of the accused is that he and his brother took Rs. 1,50,000/- or Rs. 2,00,000/- from the complainant. On the other hand, as per the complainant Rs. 5,90,000/- were taken from him. Apart from the transaction of Rs. 2,16,000/- which has been stated to be made through cheque, all the transactions have been made in cash. No documents have been filed by the complainant along with the complaint.

11. Ld. Counsel for complainant argued that the accused caused delay in the present proceedings and the same should be considered while deciding the present application, however, the same is one of the factor.

12. As the court has to keep in mind the prima facie case of the *complainant vis-a-vis the defence raised by the. accused, this court is of the view that the accused has raised a plausible defence than the case of the complainant which is unsupported by any document. Considering the same, the application under Section 143A NI Act filed by the complainant stands dismissed.*

13. Needless to state, nothing mentioned in the present order shall be construed as an opinion on the merits of the case."

6. Counsel for the Petitioner contends that, in view of the stand taken by the Respondents at the stage of notice under Section 251 Cr.P.C., no plausible defence is made out on their behalf. Once the Respondents admitted their signatures on the cheques and acknowledged their issuance, the Trial Court ought to have directed payment of interim compensation under Section 143A of the NI Act. It is submitted that the Trial Court failed to apply the settled principles governing *prima facie* assessment while deciding the said application and has erroneously shifted the burden of proof onto the Complainant, contrary to the statutory scheme. Having regard to the Respondents' admissions at the stage of notice under Section 251 Cr.P.C. and presumptions under Sections 118 and 139 of the NI Act, the existence of a legally enforceable debt stood established. The Trial Court erred in declining the Petitioner's prayer for interim compensation.

7. The Court has considered the rival submissions and perused the record. In the opinion of this Court, as held in ***Rakesh Ranjan Shrivastava v. State of Jharkhand & Anr***.[3] relied upon by the Trial Court, the presumption under Section 139 of NI Act, by itself cannot form the basis for directing payment of interim compensation under Section 143A. The said presumption is rebuttable and its application arises during trial upon appreciation of evidence. At the stage of considering an application under

[3] (2024) 4 SCC 419.

Section 143A, the Court is required to make only a *prima facie* evaluation of the case set up by the complainant *vis-à-vis* the defence raised by the accused, and exercise discretion accordingly.

8. In the present case, the Trial Court, upon *prima facie* assessment, observed that except for one transaction effected through cheque, all other alleged payments were made in cash, with no supporting documents filed by the Complainant. While the Respondents admitted their signatures on the cheque, they contended that it was issued only as security for a smaller loan. In these circumstances, the Trial Court found the defence to be plausible and the Complainant's case lacking corroboration. The view so taken accords with the principles in ***Rakesh Ranjan Shrivastava***. The Trial Court has not accepted the defence, but merely held that the accused should be afforded an opportunity to rebut the statutory presumptions and establish their case. In view thereof, this Court finds no infirmity in the Trial Court's exercise of discretion in declining to direct payment of interim compensation under Section 143A of the NI Act. The impugned orders thus call for no interference in the exercise of revisional jurisdiction under Section 397 Cr.P.C

9. With the above directions, the present petitions are disposed of along with pending application(s). It is clarified that the Court has not commented on the merits of the case and all rights and contentions of the parties are left open.

SANJEEV NARULA, J

OCTOBER 6, 2025/ab