

11.05.2026

Sl. No.07.

D/L.

Mithun.

Ct.No.29.

CRR/3907/2025

Hemanta Samanta

Vs.

The State of West Bengal & Anr.

Mr. Anand Keshari,
Mr. Sekhar Mukherjee,
Mr. Subhajit Mukherjee

...for the petitioner

Mr. Soumyajit Das Mahapatra,
Mr. Soumya Basu Roy Chowduri,
Ms. Madhurai Sinha.
Ms. Upasana Banerjee,
Mr. Abir Dalui

...for opposite party no.2

In this application the petitioner has assailed the order dated 22.02.2023 by which the Court below has granted interim compensation under Section 143A of the Negotiable Instrument Act, 1881 in favour of the complainant, on condition that in case of acquittal of the accused from the case, the above-mentioned amount will have to be returned within 60 days along with prevalent bank interest.

Being aggrieved by the aforesaid order, learned Counsel for the petitioner, Mr. Keshari submits that the Court below while passing the impugned order observed that at this stage, he is not obliged to consider the defence of the accused without going through the trial. Since signature of the accused upon the impugned cheque is not disputed, so he had granted 10% of the

entire cheque amount towards compensation, which is amounting to Rs.95,000/-.

In this context learned Counsel for the petitioner relying upon a judgment of Apex Court in ***Rakesh Ranjan Shrivastava Vs. State of Jharkhand & Anr. (2024) 4 SCC 419***, submits that it is not the law that at this stage he is not obliged to consider the defence case. The interim compensation can be granted only when it would appear to the Court that the defence case is found to be prima facie not plausible and while considering such prayer, the Court will also have to consider several factors, such as nature of transaction, the relationship, if any, between the parties etc. In the instant case accused is the brother of complainant by relation. Therefore, he submits that the order impugned is bad in law and liable to be set aside.

Learned Counsel appearing on behalf of the opposite party opposed the prayer contending that the case was initiated on 13th May, 2021 and the order of interim compensation was passed on 22nd February, 2023 and since then more than 3 years have already been passed but still the matter is dragging due to one reason or the other, though the statutory mandate is that such proceeding is to be disposed of within a time limit. Therefore, he submits that the order impugned does not call for interference by this Court and, on the contrary, the Trial Court may be directed to expedite the hearing of the case.

In reply, learned Counsel for the petitioner, Mr. Keshari submits that the Court below had issued warrant of arrest against

the petitioner after rejecting his prayer for accommodation on the ground that no stay order has been passed in connection with the instant revisional application.

He further submits that such order is required to be recalled and the petitioner may be given an opportunity to appear before the Court below.

I have considered submissions made on behalf of both the parties. Section 143A of the Negotiable Instrument Act starts with a non-obstante clause which states that notwithstanding anything contained in the Code of Criminal Procedure, the Court that is trying an offence under Section 138 of the N.I. Act, may order the drawer of the cheque to pay interim compensation to the complainant. While interpreting the said clause and that the word “may” used in the provision cannot be construed as “shall”, the Apex Court has laid down the guidelines that are required to be followed by the concerned Trial Court, which includes that a direction to pay interim compensation can be awarded only if the complainant makes out a prima facie case and the defence case is not prima facie plausible, along with other factors.

In the instant case, from the complaint it appears that the accused has allegedly requested the complainant on several occasions to provide financial help and thereby the complainant paid an amount totalling to Rs.9,50,000/-. Thereafter, when the complainant demanded the said amount, the accused person issued the impugned cheque in his favour, which is dated 10th March, 2021. The complainant deposited the said cheque on 8th

April, 2021 for encashment but the Bank by the return memo dated 09.04.2021 informed the complainant that the cheque got dishonoured on the ground of “*payments stopped by the drawer*”. Thereafter on 30th April, 2021 the complainant issued the demand notice.

At the time of hearing of the application under Section 143A, accused appears to have taken a defence that his entire cheque book including the impugned cheque leaf was lost on 06.06.2018 and for which he had lodged a general diary at that time. However, the Court below found that signature of the drawer of the cheque is not in dispute. The demand notice was also given within the statutory period of time and the cheque was also dishonoured on the ground of “payment stopped by the drawer” and not on the ground of “cheque reported lost” and thereby he was pleased to grant interim compensation to the petitioner.

I do not find any perversity in the order impugned which may call for interference by this Court. Since the complainant has made out a prima facie case, he was justified in observing that the defence of the accused that the entire cheque book including impugned cheque leaf has been lost is prima facie not plausible, in view of the fact that signature on impugned cheque is not in dispute. Therefore, the order impugned does not call for interference.

However, the petitioner herein is given liberty to surrender before the Court below in terms of the order dated 3rd July, 2025 within a period of 2 weeks and in the event of such surrender, the

Court below shall dispose of his prayer in accordance with law without being influenced by any observation made herein. The Trial Court will make its best endeavour to dispose of the proceeding at the earliest in compliance with Section 143 of the N.I. Act.

The order impugned dated 03.07.2025 is hereby stayed for a period of two weeks or till the petitioner surrenders before the Court below whichever is earlier.

CRR 3907 of 2025 is hereby disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)