

CRM-M-25375-2026

2026.PHHC.070463



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

137

CRM-M-25375-2026  
Date of decision: 06.05.2026

SUBHADRA BHARDWAJ

....Petitioner

Versus

RAGHU NATH SHARMA

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Abhishek Jindal, Advocate for the petitioner.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. Instant petition has been filed for quashing/setting aside of order dated 29.01.2024 (Annexure P-2) in case No. NACT-16169/2020 titled as '*Raghu Nath Sharma vs. Subhadra Bhardwaj*' along with impugned order dated 03.04.2026 (Annexure P-5) passed in CRR-69-2026, whereby the petitioner has been directed to pay interim compensation to the tune of 10% of the cheque amount in view of Section 143A of NI Act without considering whether the case of the petitioner falls within exception or not.

2. Brief facts of the present case are that the complainant, having family relations with the petitioner, advanced money to the petitioner on various occasions, leading to a settlement on 18.06.2019 for repayment of ₹25,26,000/- through instalments and cheques. A subsequent settlement in 2019 revised the payment schedule; however, one cheque of ₹6 lakhs dated 20.04.2020 was dishonoured with the remark "payment stopped by drawer." Consequently, a complaint under Section 138 of the Negotiable Instruments Act was filed against the petitioner. During proceedings the complainant moved an application under Section 143A of NI Act seeking 20% interim



compensation and the learned Trial Court vide order dated 29.01.2024 directed the petitioner to deposit 10% of the cheque amount as interim compensation. The petitioner, therefore, seeks quashing of the impugned order dated 29.01.2024.

3. Learned counsel for the petitioner contends that Section 143A is discretionary, not mandatory, as the word “may” cannot be read as “shall.” He further contends that the learned trial Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 10% of the cheque amount and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon’ble Supreme Court in **Criminal Appeal No.741 of 2024** titled as “**Rakesh Ranjan Shrivastava vs. The State of Jharkhand and another**”, decided on 15.03.2024. Speaking through Justice Abhay S. Oka, it has been held as follows:-

*“ 19. Subject to what is held earlier, the main conclusions can be summarised as follows:*

*a. The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not mandatory. The word "may" used in the provision cannot be construed as "shall."*

*b. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.*

*c. The broad parameters for exercising the discretion under Section 143A are as follows:*

- i. 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. The financial distress of the accused can also be a consideration.*
- ii. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.*



- iii. *If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.*
- iv. *If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.*
- v. *There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.”*

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in **Rakesh Ranjan Shrivastava (supra)**, the lower Appellate Court was required to consider whether the case of the petitioner is an exceptional case which warrants consideration before imposing the condition of deposit of 10% of cheque amount. The impugned order dated 29.01.2024 (Annexure P-2) is hereby set aside. The learned trial Court is directed to re-examine the case after granting an opportunity to both the parties to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of deposit of interim compensation.

5. The matter is remanded back to the learned trial Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava (supra)**.

6. The petition is disposed of accordingly.

(RUPINDERJIT CHAHAL)  
JUDGE

06.05.2026  
*Mohit Bishnoi*

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| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |