



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 2573/2024

Gariya Ba Shyam Enterprises, Ladha Complex Gangapur Through
Its Proprietor, Narayan S/o Deva Ji Gadri, Aged About 35 Years,
Sahada, Police Station Gangapur, District Bhilwara.

-----Petitioner

Versus

Mahaveer Trading Company, Kasara Bazar, Gangapur Through Its
Proprietor Smt. Kanta Kumari W/o Hastimal Ji Ostwal, Aged
About 60 Years, R/o Gangapur, Police Station Gangapur, District
Bhilwara.

-----Respondent

For Petitioner(s) : Mr. Mohammad Amaan.
For Respondent(s) :

HON'BLE MR. JUSTICE ARUN MONGA
Order

08/07/2024

1. Petitioner is before this Court aggrieved against an order dated 23.07.2023 passed by the learned Additional Chief Judicial Magistrate, Gangapur, District Bhilwara in N.I. Case No.353/2021, whereby the application under Section 143A of the Negotiable Instruments Act, 1881 ('N.I. Act') filed by the complainant-respondent was allowed. The petitioner has been directed to pay 20% of the cheque amount as compensation to the complainant.
2. At the out set, having perused the casefile, I am of the view the impugned order passed by the learned ACJM is very cryptic to say the least. It simply states that arguments of both the parties were heard, the case file was examined and, therefore, the application filed by the complainant under section 143A of the N.I. Act is accepted and it is ordered that accused proprietor Narayan



shall pay 20% of the amount mentioned in the cheque as interim compensation.

3. The order has thus been passed by the ACJM mechanically, without apparently any application of mind and/or otherwise recording the reasons as to why the petitioner-accused is directed to pay interim compensation.

4. In this regard reference may be had to Hon'ble Apex Court judgment rendered in **Rakesh Ranjan Shrivastava v. State of Jharkhand & Anr¹**, wherein detailed parameters have been summarized enumerating the circumstances, under which interim compensation can be granted by the learned trial court during pendency of the trial, which for ready reference are extracted here-in-below :-

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

¹(2024) 3 SCR 438



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.”



5. It is clear from the order assailed herein that aforesaid parameters, laid down by the Apex Court, have not been taken into consideration.
6. There is no gainsaying that though the trial court is vested with the power to pass such orders, but not without complying the ratio laid down by the Supreme Court *ibid*.
7. As an upshot, the impugned order dated 23.07.2023 is not sustainable and deserves to be set-aside. It is so ordered.
8. The petition is allowed. The trial to proceed further without taking any coercive steps against the petitioner to deposit any interim compensation.

(ARUN MONGA), J

38-Rmathur/-

Whether fit for reporting: Yes / No