



2026:AHC:56379

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 10984 of 2026

Bihari Lal Agrawal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Saksham Srivastava, Yasharth
Srivastava
Counsel for Opposite Party(s) : G.A.

Court No. - 73

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant; learned A.G.A for the State as also perused the record.

2. Instant application has been filed to quash the order dated 12.01.2026 passed by Presiding Officer, Additional Court, Aligarh by which the learned court has allowed an application under Section 143A Negotiable Instruments Act and directed the applicant to pay interim compensation amounting to 20% to the opposite party no. 2. in complaint case no. 67/2024 (M/S Agarwal motors Pro. Prashant Bansal Vs Bihari Lal Agrawal) under Section 138 Negotiable Instrument Act P.S. Banna Devi District Aligarh, pending in the court of Presiding Officer Additional Court Aligarh.

3. Counsel for the applicant submits that by the impugned order dated 12.01.2026, the application of opposite party no. 2 under Section 143A N.I. Act has been allowed with direction that applicant shall deposit 20% of the principal amount. It is next submitted that the impugned order has been passed in arbitrary manner without considering the objection of the applicant and allowing 20% as interim to deposit of the principal amount is illegal and arbitrary. It is next submitted that amount is too excessive and applicant's financial condition is not sound. Moreover, no evidence has come before the trial court that applicant has issued the cheque to the opposite party no. 2. The order impugned is liable to be set aside.

4. Learned A.G.A. has vehemently opposed the prayer for quashing the

proceedings of the aforesaid case and has submitted that the order impugned does not suffer from any illegality or infirmity.

5. From perusal of the impugned order, it is apparent that the learned Magistrate has passed the order after perusing the material evidence on record. The order impugned is just and proper and has been passed in accordance with the provisions provided under Section 143A of N.I. Act. Section 143A (4) of N.I. Act provides that:

"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."

6. The proceedings under Section 138 N.I. Act is still pending and evidence are yet to come. The trial court has to examine the evidence produced by the parties. The submission raised by counsel for the applicant cannot be examined at this stage. As provided in the Act, in the case of acquittal of the applicant, the amount can be recovered from the complainant. The proceedings under Section 138 N.I. Act is pending for disposal and a decision has yet to come after examination of the witnesses. Counsel for the applicant has placed reliance upon para-19 of the judgment of Apex Court in **Rakesh Ranjan Shrivastava Vs. The State of Jharkhand and others** decided on 15.03.2024 wherein the Hon. Apex Court has held thus:

"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 follows:

I. The Court will have tu 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."

7. From the order dated 12.01.2026, it is apparent that complaint was registered on 24.01.2024, thereafter applicant surrendered and released on bail. On 07.09.2024, the statement of the accused/applicant was recorded under Section 251 Cr.P.C., thereafter on 12.12.2025, the applicant's statement was recorded under Section 313 Cr.P.C. and on 05.02.2025, counsel for the applicant cross examined the complainant and case was posted for hearing.

8. Subsequently, both the parties approached this Court and the Application 482 No.43161 of 2024 filed by the complainant was allowed on 02.01.2025 directing the learned Additional Court Aligarh, to decide the complaint expeditiously, preferably within a period of six months. The applicant raised objection before the trial court against the application under Section 143A of N.I. Act stating therein that applicant had no business deal with the complainant and he had not given cheque to complainant in return of any liability. On perusal of complaint, there is no evidence that cheque had been issued in liability but the applicant has admitted cheque and signature.

9. The trial court, after considering the objection raised by the applicant, found that the objection raised by the applicant is not tenable at the stage of deciding the application under Section 143A N.I. Act and same cannot be examined while deciding the application under Section 143A N.I. Act. The objection raised by counsel for the applicant is purely disputed question of fact. The trial court had to decide the application under

Section 143A N.I. Act in observation made by the Hon. Apex Court in **Rakesh Ranjan Shrivastava** (supra) upon which the applicant has also placed reliance. The court observed that applicant has accepted the cheque. The applicant admitted the signature over the cheque and cheque has been dishonoured by the bank. Prima facie, offence under Section 138 N.I. Act is made out. The defence of the accused that cheque had not been issued for any liability but has accepted that cheque issued by him, was not plausible explanation and the trial court has not considered the objection. The order dated 12.01.2026 passed by the trial court is just and proper and in accordance with the direction and parameters of the Hon. Apex Court's judgment **Rakesh Ranjan Shrivastava** (supra) which does not require any interference and the court is not inclined to exercise the inherent power under Section 528 BNSS.

10. The present application is, accordingly, **dismissed**.

(Deepak Verma,J.)

March 19, 2026

Meenu Singh