



2026:AHC:124646

HIGH COURT OF JUDICATURE AT ALLAHABAD

A.F.R.

APPLICATION U/S 528 BNSS No. - 22924 of 2026

Rahul Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Shubham Kumar Yadav, Shubhendu Mishra

Counsel for Opposite Party(s) : G.A.

Court No. - 35

HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Sri Subham Kumar Yadav alongwith Shubhendu Mishra, learned counsel for the applicant, Sri Vishwa Deepak Mishra, learned AGA-I for the State and perused the record.

2. This application under Section 528 BNSS has been filed by the applicant for quashing the order dated 14.05.2026 passed by the Court of learned Sessions Judge, Gautam Buddh Nagar in Criminal Revision No. 36 of 2026 (Rahul Yadav vs. Rohit Singh) as well as the order dated 20.11.2025 passed by the learned Special Court, 138 N.I. Act, Gautam Buddh Nagar arising out of Complaint Case No. 9574 of 2024, under Section 138 of N.I. Act, 1881 (Rohit Singh Vs. Rahul Yadav), P.S. Sector 39, District Gautam Buddh Nagar whereby the application under Section 143-A N.I. Act moved on behalf of opposite party no.2 has been allowed.

3. Learned counsel for the applicant submitted that the alleged transaction was found upon unverified and disputed cash payments allegedly made over a prolonged period without any independent documentary proof, receipt, banking transaction, income tax disclosure, or legally admissible evidence establishing the existence of a legally enforceable debt or liability. It is further submitted that impugned order dated 20.11.2025 allowing the application under Section 143-A of N.I. Act, is illegal, arbitrary, perverse and contrary to the settled principle of law. It was further submitted that trial Courts while passing the impugned orders dated 20.11.2025 and 14.05.2026,

failed to appreciate that the provision under Section 143-A N.I. Act is directory and discretionary in nature and not mandatory as has been held by Hon'ble Apex Court in *Rakesh Ranjan Shrivastava vs. The State of Jharkhand & Anr. (2024) 4 SCC 419*. He further submitted that learned Trial Court failed to *prima facie* evaluate the merits of the complaint as well as the plausible defence raised by the applicant that no legally enforceable debt or liability existed between the parties, no business transaction or settlement of account ever took place and the aforesaid cheques were allegedly misused from the vehicle of the petitioner.

4. *Per contra*, learned AGA-I argued that the impugned order is well-reasoned and passed strictly in accordance with the law. It was submitted that the cheques admittedly belong to the accused and bear his signatures; therefore, the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act operate against the accused. It was further argued that Section 143-A was enacted specifically to strengthen the credibility of cheque transactions and prevent unnecessary delays in the disposal of cases under Section 138 N.I. Act.

5. After perusal of the record, it transpires that the complainant filed a complaint under Section 138 Negotiable Instrument Act on 30.07.2024 alleging that the accused-applicant, engaged in the real estate business, had a liability of Rs. 10,00,000/- towards the complainant. To discharge this liability, three cheques were issued (amounting to Rs. 3,00,000/-, Rs. 6,00,000/-, and Rs. 1,00,000/-), which were dishonoured upon presentation with the remarks "Funds Insufficient" and "Account Inoperative". Following this an application under Section 143-A of Negotiable Instrument Act was filed by the complainant seeking interim relief as per the said provision of law. The Learned Trial Court, after hearing both the parties and perusing the material available on the record, vide order dated 20.11.2025, directed the accused to pay 20% of the cheque amount (i.e., Rs. 2,00,000/-) as interim compensation within two months, which was subsequently upheld by the Revisional Court on 14.05.2026.

6. Before delving into the merits of the discretionary power under Section 143-A N.I. Act, it is pertinent to quote the said section. Section 143-A reads thus:

"143-A. Power to direct interim compensation.—(1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), 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 (1) shall not exceed twenty per cent of the cheque amount.

(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 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 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.

(5) The interim compensation payable under this section may be recovered as if it were a fine under Section 421 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) The amount of fine imposed under Section 138 or the amount of compensation awarded under Section 357 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section."

7. The Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava v. State of Jharkhand, (2024) 4 SCC 419** in paragraph nos. 22-27 has observed that:-

"Factors to be considered while exercising discretion;

22. When the court deals with an application under Section 143-A of the NI 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 143-A. The presumption under Section 139 of the NI Act, by itself, is no 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. At this stage, the fact that the accused is in financial distress can also be a consideration.

23. 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.

24. 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 143-A, the Court must record brief reasons indicating consideration of all the relevant factors.

25. In the present case, the trial court has mechanically passed an order of deposit of Rs 10,00,000 without considering the issue of prima facie case and other relevant factors. It is true that the sum of Rs 10,00,000 represents less than 5% of the cheque amount, but the direction has been issued to pay the amount without application of mind. Even the High Court has not applied its mind. We, therefore, propose to direct the trial court to consider the application for grant of interim compensation afresh. In the meanwhile, the amount of Rs 10,00,000 deposited by the appellant will continue to remain deposited with the trial court.

26. Hence, the impugned orders are set aside, and the application made by the complainant in Complaint Petition No. 1103 of 2018 under Section 143-A(1) of the NI Act is restored to the file of Judicial Magistrate First Class, Bokaro. The learned Judge will hear and decide the application for the grant of interim compensation afresh in the light of what is held in this judgment. The amount deposited by the appellant of Rs 10,00,000 shall be invested in a fixed deposit till the disposal of the said application. At the time of disposing of the application, the trial court will pass an appropriate order regarding refund and/or withdrawal and/or investment of the said amount.

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

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

27.2. While deciding the prayer made under Section 143-A, the court must record brief reasons indicating consideration of all relevant factors.

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

27.3.1. 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.

27.3.2. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.

27.3.3. If the defence of the accused is found to be prima facie plausible, the court may exercise discretion in refusing to grant interim compensation.

27.3.4. 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.

27.3.5. 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."

8. Therefore, it is a settled proposition of law that while the power under Section 143-A is discretionary, the Court is only required to consider the '*prima facie*' merits of the complaint and the defence raised. Now this court proceeds to discuss the outline of the '*prima facie*' standard as mentioned in the said provision of law. The Latin term '*prima facie*' translates to "at first sight" or "based on a 'first impression.'" According to **Webster's Third International Dictionary**, a "*prima facie*" case means a case established by "*prima facie evidence*" sufficient in law to raise a presumption of fact unless rebutted. Legal jurists explain this not as a final standard of absolute proof, but as a threshold ensuring that a claim has enough legal merit to proceed to trial and shift the burden of proof. In criminal and quasi-criminal proceedings, this doctrine prevents the judicial machinery from being used for frivolous harassment while ensuring legitimate offences are duly investigated and tried.

9. The Hon'ble Supreme Court of India has reaffirmed this doctrine in numerous precedents. In **Balvir Singh v. State of Uttarakhand (AIR 2023 SC 5551)**, the Court clarified that '*prima facie*' only requires an initial, reliable impression rather than proof beyond a reasonable doubt. Similarly, in cases like **Sunil Bharti Mittal v. CBI (2015) 4 SCC 609** and **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (2021) 19 SCC 401**, the Hon'ble Apex Court observed that while a judge must actively apply their mind to ensure the facts disclose a genuine offence, they must avoid weighing the deeper merits, appreciating factual defences, or conducting a

"mini-trial" at the preliminary stage.

10. Applying the aforementioned '*prima facie*' standard to the present facts this Court finds that the Trial Court has rightly observed that; (i)The cheques in question admittedly belonged to the accused. (ii)The signatures on the cheques are not disputed.(iii) The accused had already been summoned and notice under Section 251 Cr.P.C. remained pending for a considerable time. Also, the fact that bank statements of accused-applicant shows that his account was already inoperative and out of money, makes his defence that the said cheques were misused , highly improbable. At the stage of consideration of an application under Section 143A N.I. Act, the Court is not required to conduct a detailed appreciation of evidence as if deciding the final complaint on merits. The defence sought to be raised by the accused regarding the alleged misuse of cheques is essentially a matter of trial and can only be adjudicated upon after evidence is led by the parties. Merely because the accused has taken a defence that the cheques were misused does not automatically exclude the complainant from seeking interim compensation.

11. Further, the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act continue to operate unless rebutted during the trial. The contention of the applicant that the complainant has not established a legally enforceable debt cannot be conclusively examined at this preliminary stage. The complaint discloses the nature of the liability and the issuance of the cheques thus, the '*prima facie*' ingredients necessary for the exercise of power under Section 143-A N.I. Act stood satisfied.

12. This court also finds that the argument that the Trial Court awarded the maximum permissible amount (20%) without adequate reasons does not persuade this Court to interfere. The Trial Court properly considered the pendency of the complaint, the nature of allegations, and the admitted signatures on the cheques.

13. In the considered opinion of this Court, the impugned orders neither suffer from perversity nor from any jurisdictional infirmity. The learned Trial Court and learned Revisional Court exercised discretion vested under law upon consideration of the material available on the record. No ground is made out warranting interference by this Court.

14. Consequently, the application is devoid of merits and liable to be dismissed.

15. Accordingly, the application is **dismissed**.

16. Before parting with the order, I would like to put in a word of appreciation for my Research Associate Ms. Anjali Singh for her dexterity in research and assistance in drafting of this order.

June 2, 2026

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(Jai Krishna Upadhyay, J.)