IN HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR.

CRM(M) No. 278/2026
CrlM No. 663/2026

Reserved on: 03.06.2026
Pronounced on:06 .06.2026
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Whether full judgment or
operative has been pronounced: Full

MOHAMMED ASHRAF MIR (AGED:55 YEARS)
S/O MOHAMMAD FATEH MIR
R/O WARPOHA ALUASTANG DISTRICT, GANDERBAL

… Petitioner(s)

Through: Mr.Aazim Pandith, Advocate
Mr. Mohsin-ul-showkat Qadiri, Sr.AAG (Amicus Curiae)

Vs.

WAZIRA RESHI (60 YEARS)
W/O MOHAMMED YOUSAF RESHI
R/O KHANIYAR SRINAGAR
A/P: WARPOHA ALUASTANG DISTRICT,
GANDERBAL **…..Respondent(s)**

Through:

CORAM:HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

JUDGMENT

BRIEF FACTS:

1. The petitioner has invoked the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, seeking quashment of order dated 04.11.2025 passed by the learned Chief Judicial Magistrate, Baramulla at Sopore, whereby an application filed by the respondent under Section 143-A of the Negotiable Instruments Act, 1881 for grant of interim compensation came to be allowed.

Challenge is also thrown to the order dated 27.02.2026 passed by the learned Additional Sessions Judge, Sopore, whereby the revision petition preferred by the petitioner against the aforesaid order was dismissed and the order of the Trial Court was affirmed.

2. The facts, as pleaded in the petition, reveal that the respondent instituted a complaint against the petitioner under Section 138 of the Negotiable Instruments Act alleging dishonour of a cheque amounting to ₹80,00,000/-. During the pendency of the complaint proceedings, the respondent moved an application under Section 143-A of the Negotiable Instruments Act seeking grant of interim compensation. The petitioner contested the said application by filing objections.

3. Upon consideration of the matter, the learned Chief Judicial Magistrate, Baramulla at Sopore, vide order dated 04.11.2025, allowed the application and directed payment of interim compensation in terms of Section 143-A of the Negotiable Instruments Act.

4. Feeling aggrieved of the aforesaid order, the petitioner preferred a revision petition before the Court of learned Additional Sessions Judge, Sopore. The revisional court, however, vide judgment dated 27.02.2026, dismissed the revision petition and upheld the order passed by the Trial Court.

5. Still dissatisfied and aggrieved by the concurrent findings returned by the Courts below, the petitioner has now approached this Court by way of the present petition seeking quashment of the aforesaid orders and the consequential proceedings arising therefrom.

SUBMISSIONS ON BEHALF OF PETITIONER:

6. The learned counsel appearing for the petitioner contended that the impugned orders passed by the Learned Trial Court as well as the Revisional Court, directing payment of interim compensation under Section 143-A of the Negotiable Instruments Act, are ex facie illegal, arbitrary, and unsustainable in law, and therefore liable to be set aside.

7. It was argued that the power under Section 143-A of the Act is discretionary and not mandatory. It is settled that where discretion is vested in a court, the same must be exercised judiciously and on sound legal principles. In the present case, however, the discretion has been exercised in a routine and mechanical manner, without recording any objective satisfaction or cogent reasons, thereby defeating the very purpose of the provision.

8. It was further contended that the application seeking interim compensation was devoid of any cogent or compelling grounds. The petitioner had filed detailed objections raising substantial and relevant issues; however, the same have neither been considered nor dealt with by the courts below. Such non-consideration of material pleadings renders the impugned orders unsustainable.

9. It was next argued that the petitioner has raised a consistent and plausible defence, which stands borne out from the cross-examination of the complainant and other witnesses. Material contradictions and

inconsistencies have emerged on record, and the testimony of the Bank Manager further lends support to the defence of the petitioner. In such circumstances, where the defence cannot be termed illusory or sham, the direction to pay interim compensation is unwarranted.

10. It was also contended that the reliance placed on the presumption under Section 139 of the Act is misplaced. The presumption is rebuttable in nature and operates within the domain of trial upon appreciation of evidence. The same cannot be invoked as a matter of course to justify grant of interim compensation, particularly when a tenable defence has been raised.

11. It was further argued that the financial capacity of the petitioner has not been considered. The petitioner is facing financial constraints and is not in a position to comply with the direction of interim compensation. The failure to consider this relevant factor renders the impugned orders inequitable.

12. It was also submitted that the impugned orders are non-speaking and bereft of reasons. It is settled that any order having civil consequences must disclose due application of mind. The absence of reasons indicates arbitrariness and vitiates the orders.

13. It was further contended that the quantum of interim compensation awarded is arbitrary and without any rational basis. The impugned orders do not indicate the reasons for determining the percentage, thereby rendering the same legally unsustainable.

14. Learned counsel for the petitioner has, *inter alia*, placed reliance upon the judgment of the Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava v. State of Jharkhand, (2024) 4 SCC 419** and the judgments of this Court in **Nazir Ahmad Chopan v. Abdul Rehman Chopan, CRM(M) No. 50/2020, decided on 23.12.2022,** and **Nargees Javaid v. Ghulam Jeelani Nengroo, CRM(M) No. 185/2026**, **decided on 20.04.2026**, to contend that the impugned orders are liable to be set aside.

SUBMISSION ON BEHALF OF AMICUS CURIE

15. Since learned counsel for the petitioner raised an important question concerning the scope and ambit of Section 143A of the Negotiable Instruments Act, this Court asked Mr. Mohsin Qadri, learned Senior Additional Advocate General, to assist the Court as amicus curiae.

16. Assisting the Court, Mr. Qadri submitted that the power conferred upon the trial Court under Section 143A of the Negotiable Instruments Act to award interim compensation is not mandatory but discretionary in nature. According to him, the legislature has consciously employed the expression "may" in Section 143A(1), which clearly indicates that the grant of interim compensation is not automatic upon the framing of notice or plea of the accused. The Court is required to exercise its discretion judiciously after considering the facts and circumstances of each case.

17. Learned amicus curiae further submitted that though, in certain circumstances, the expressions "may" and "shall" have been

construed interchangeably by courts to give effect to legislative intent, the judicial interpretation that has evolved around Section 143A of the Negotiable Instruments Act leaves little room for doubt that the provision does not contemplate an automatic or mechanical award of interim compensation. The consistent judicial view is that the power under Section 143A is discretionary and is required to be exercised upon a prima facie evaluation of the material on record.

18.He further submits that the provision envisages an adjudicatory exercise whereby the Court is required to apply its mind to the merits of the complaint, the nature of the defence raised by the accused, and other relevant circumstances before determining whether the case warrants the grant of interim compensation. Thus, the mere filing of a complaint under Section 138 of the Act or the framing of notice against the accused does not, by itself, entitle the complainant to an order of interim compensation as a matter of course.

19.Heard learned counsel for the petitioner and perused the material available on record.

<u>LEGAL ANALYSIS:</u>

20.The principal grievance projected by the petitioner is that the order dated 04.11.2025 passed by the learned Chief Judicial Magistrate, Baramulla at Sopore, directing payment of interim compensation under Section 143-A of the Negotiable Instruments Act, is a non-speaking order and that the discretion vested in the Court under the said provision has been exercised mechanically and without due application of mind. It has further been contended that the Revisional Court failed to appreciate the legal infirmities attending the order of the Trial Court and erroneously affirmed the same.

21. For a proper appreciation of the submissions advanced by learned counsel for the petitioner, it becomes necessary to examine the scope and ambit of Section 143-A of the Negotiable Instruments Act, 1881. For facility of reference, the provision is reproduced hereunder:

> ***"143A. Power to direct interim compensation.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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 amount of the cheque.***
>
> ***(3) The interim compensation shall be paid within sixty days from the date of the order under subsection (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 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.***
>
> ***(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."***

22. A plain reading of the aforesaid provision reveals that the legislature has empowered the Court trying an offence under Section 138 of the Act to direct the accused to pay interim compensation, not exceeding twenty per cent of the cheque amount, at the stage contemplated under the provision. The power, however, is discretionary in nature and not mandatory. It is, therefore, expected that such discretion be exercised on the basis of relevant considerations and supported by reasons reflecting application of mind to the facts of the case.

23. Whether such discretion has been exercised in accordance with the requirements of law would necessarily depend upon the contents of the order impugned and the reasons, if any, recorded therein. The Court is, therefore, required to examine whether the learned Trial Court has taken into consideration relevant factors germane to the exercise of jurisdiction under Section 143-A of the Act and whether the reasons which weighed with it are discernible from the order itself.

24. Having considered the impugned order dated 04.11.2025 in the light of the submissions advanced, this Court finds no merit in the contention that the learned Trial Court exercised the jurisdiction under Section 143-A of the Negotiable Instruments Act mechanically or without application of mind. The order, when read as a whole, reflects due consideration of the relevant facts, the objections raised

by the accused and the legal principles governing the exercise of power under the aforesaid provision.

25. A perusal of the order reveals that the learned Magistrate was conscious of the nature of the discretion vested under Section 143-A and did not proceed on the premise that grant of interim compensation was automatic or mandatory. The order further demonstrates that the learned Trial Court examined the material available on record, took note of the stage of the proceedings and evaluated the circumstances which, in its opinion, warranted exercise of the jurisdiction under the said provision.

26. The learned Chief Judicial Magistrate has referred to the governing precedents, noticed the conduct of the accused during the proceedings and considered the necessity of balancing the interests of the complainant with the rights of the accused before directing payment of interim compensation. The relevant observations made by the learned Trial Court read as under:

> ***"9. The Hon'ble Supreme Court in Rakesh Ranjan Shrivastava v. State of Jharkhand & Anr. (Criminal Appeal No. 741 of 2024, decided on 15.03.2024) clarified that Section 143-A is discretionary, not automatic. The Court must prima facie assess the merits of the complaint and the nature of defence, and consider factors such as the accused's conduct, financial capacity, and likelihood of the trial being delayed.***
>
> ***10. Likewise, in G.J. Raja v. Tejraj Surana (2019 SCC Online SC 989), the Hon'ble Supreme Court held that the object of Section 143-A is to strike a balance between the rights of the complainant and the accused and to prevent abuse of process through prolonged litigation or deliberate absence.***
>
> ***11. Upon consideration of the material on record, this Court finds that (a) the cheque, dishonour memo, and statutory***

> ***notice stand duly proved on record; (b) the accused has admitted the cheque and signature, denying only liability; (c) there have been repeated defaults by the accused in appearance; and (d) the exemption obtained by him to travel abroad carries a real possibility of him protracting the proceedings or evading trial. These factors cumulatively justify invocation of Section 143-A to protect the complainant's interest.***
>
> ***12. However, it is equally a matter of judicial balance that the accused's right to defend cannot be prejudiced by an excessive or disproportionate interim order. The discretion under Section 143-A must be exercised judiciously—not as punishment, but as a safeguard.***
>
> ***13. Considering the conduct of the accused, the advanced stage of proceedings, and the potential risk of delay and flight, this Court finds it just and equitable to direct payment of 10% of the cheque amount, i.e., ₹8,00,000/- (Rupees Eight Lakh only) as interim compensation within a period of sixty (60) days from today, either by deposit before this Court or by furnishing a valid bank guarantee or fixed deposit of equivalent value."***

27. The aforesaid extract demonstrates that the learned Trial Court was conscious of the legal position governing the exercise of power under Section 143-A and specifically noticed that the provision does not mandate grant of interim compensation as a matter of course. The learned Magistrate referred to the judgments of the Hon'ble Supreme Court governing the field and thereafter proceeded to examine the facts of the case in the light of the principles laid down therein.

28. Significantly, the Trial Court recorded specific findings that the cheque, dishonour memo and statutory notice stood proved on record; that the accused had admitted the issuance of the cheque and his signatures thereon, disputing only the underlying liability; that there had been repeated defaults in appearance on the part of the accused; and that the permission obtained by him to travel abroad created a

possibility of delay in conclusion of the proceedings. These are not extraneous considerations but factors directly relevant for determining whether the discretion under Section 143-A ought to be exercised.

29.The order further reveals that the learned Magistrate did not proceed solely on the basis of the complainant's claim. On the contrary, the Court remained alive to the requirement of maintaining a balance between the rights of the complainant and those of the accused and specifically observed that interim compensation cannot assume the character of punishment. It is only after noticing the conduct of the accused, the stage of the proceedings and the possibility of delay in conclusion of trial that the Court considered it appropriate to award interim compensation.

30.Thus, the reasons which weighed with the learned Trial Court in invoking Section 143-A are clearly discernible from the order itself. The order cannot, therefore, be termed as a non-speaking order or one suffering from non-application of mind. Rather, it reflects a conscious exercise of judicial discretion founded upon relevant and germane considerations.

31.Learned counsel for the petitioner has placed reliance upon the judgment of this Court in **Nazir Ahmad Chopan v. Abdul Rehman Chopan, CRM(M) No. 50/2020, decided on 23.12.2022,** and **Nargees Javaid v. Ghulam Jeelani Nengroo, CRM(M) No. 185/2026**, **decided on 20.04.2026**, to contend that the impugned orders are liable to be set aside. However, the reliance placed on the aforesaid judgments is misconceived and misplaced.

32. A careful reading of the said judgments reveals that the orders impugned therein were interfered with primarily on account of the failure of the courts concerned to record reasons while exercising jurisdiction under Section 143A of the Negotiable Instruments Act. The orders under challenge in those cases were found to be non-speaking and reflective of non-application of mind to the relevant considerations governing the exercise of discretion under the said provision.

33. The facts of the present case stand on an entirely different footing. The learned Chief Judicial Magistrate, while allowing the application under Section 143A of the Negotiable Instruments Act, has recorded reasons and has adverted to the relevant material available on record. The revisional court has also independently examined the matter and affirmed the said view by a reasoned order. Thus, the impugned orders cannot be termed as cryptic or unreasoned. Since the factual basis on which the aforesaid judgments were rendered is conspicuously absent in the present case, the same are clearly distinguishable and do not advance the case of the petitioner.

34. The petitioner has further placed reliance upon the judgment of the Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava v. State of Jharkhand, (2024) 4 SCC 419.** There can be no dispute as to the proposition laid down therein that the power under Section 143A of

the Negotiable Instruments Act is discretionary in nature and that while considering an application under the said provision, the Court is required to record brief reasons demonstrating consideration of the relevant factors. The Hon'ble Supreme Court has also emphasised that the Court must prima facie assess the merits of the complaint and the defence put forth by the accused before exercising such discretion.

35. However, far from supporting the petitioner's case, the aforesaid judgment reinforces the validity of the impugned orders. The requirement spelt out by the Hon'ble Supreme Court is that the Court must disclose reasons while exercising discretion under Section 143A.

36. In the case at hand, the learned Magistrate has complied with the said mandate by assigning reasons and recording satisfaction on the basis of the material available before the Court. The judgment does not lay down that a reasoned order passed upon due consideration of the relevant factors would still be vulnerable to interference merely because the accused disputes the conclusions reached by the Court. Consequently, the reliance placed upon the aforesaid judgment is of no assistance to the petitioner.

CONCLUSION :

37. In view of the forgoing discussion, this Court is satisfied that the discretion vested in the learned Trial Court under Section 143-A of the Negotiable Instruments Act has been exercised upon consideration of relevant factors and for reasons duly recorded. The

quantum of interim compensation awarded i.e., ten per cent of the cheque amount, is also well within the statutory limit prescribed under the provision. No arbitrariness, perversity or jurisdictional error can be said to have crept into the order warranting interference in exercise of inherent jurisdiction.

38. Accordingly, this Court finds no infirmity in the order dated 04.11.2025 passed by the learned Chief Judicial Magistrate, Baramulla at Sopore, directing payment of interim compensation under Section 143-A of the Negotiable Instruments Act. Equally, the judgment dated 27.02.2026 passed by the learned Additional Sessions Judge, Sopore, affirming the said order in revision, does not call for interference. Both the orders are, therefore, upheld.

39. The writ petition, as such, being devoid of merit, is accordingly dismissed along with connected application(s).

(Wasim Sadiq Nargal)
Judge

<u>Srinagar:</u>
06.06.2026
"Mubashir"

i. Whether the Judgment is Reportable: Yes/No
ii. Whether the Judgment is Speaking: Yes