

APHC010131652026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3396]

THURSDAY, THE NINTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA
CRIMINAL REVISION CASE NO: 303/2026**

Between:

1. NARVANENI KALAVATHI,, W/O MURALI, R/O OPPOSITE VARUN
MOTORS ROAD, RYTHUPET, NANDIGAMA, NTR DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT
AMARAVATI.

2. SURYADEVARA CHALAMAIAH, S/O SATYANARAYANA, AGED
ABOUT 60 YEARS, R/O 6-129/1/A, RYTHUPET, NANDIGAMA,
NTR DISTRICT - 521185

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the
circumstances stated in the affidavit filed in support of the
CriminalRevisionCase, the High Court may be pleased to set aside the
orders passed in CrI.MP No. 4037 /2023 in C.C.No.400/2023 on the file of
Addl. Judicial Magistrate of First Class, Nandigama in the interest of
justice.

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances
stated in the affidavit filed in support of the petition, the High Court may be
pleased to Suspend the order passed in CrI.MP No.4037 /2023 in
C.C.No.400/2023 on the file of Addl. Judicial Magistrate of First class,
Nandigama pending disposal of CrI.RC in the interest of justice

Counsel for the Petitioner:

1. P NAGENDRA REDDY

Counsel for the Respondent(S):

1. SURYADEVARA SIRISHA

2. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

This Criminal Revision Case under Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 by the Petitioner/Accused seeking to set aside the Order dated 16.01.2026 passed in CrI.M.P.No.4037 of 2023 in CC No.400 of 2023 on the file of the Court of Additional Judicial Magistrate of First Class, Nandigama.

2. The relevant facts of the case, in brief, are that

i) The Petitioner herein is the Accused and respondent No.2 is the Complainant in CC No.400 of 2023 on the file of the Court of Additional Judicial Magistrate of First Class, Nandigama. The Petitioner/Accused and the complainant are known to each other prior to the filing of the present case. On request of the Petitioner, on 25.05.2021 the complainant gave an amount of Rs.50.00 lakhs to the Petitioner for her business activities and the Petitioner executed a promissory for the said amount in favour of the complainant agreeing to repay the said amount with interest at 24% per annum.

ii) On several demands, the petitioner issued a cheque bearing No.539088 dated 06.02.2023, drawn on State Bank of India, Nandigama Krishna District for an amount of Rs.45.00 lakhs in favour of the Complainant. On presentation of the said cheque, the Bank of Baroda authorities sent an endorsement to the Complainant, on 08.03.2023, to the effect that "Funds Insufficient".

iii) After following the procedure contemplated under the provisions of the Negotiable Instruments Act, the complainant filed a private complaint before the

Trial Court against the Accused for the offence punishable under Section 138 of the Negotiable Instruments Act, (for short 'N.I.Act'), which is the subject matter in CC No.400 of 2023.

iv) In the above CC, the Complainant filed a Petition under Section 143-A of N.I.Act *vide* CrI.M.P.No.4037 of 2023 seeking direction to the Accused to pay an interim compensation of Rs.9,00,000/- to him. Having heard both sides, the learned Magistrate by Order dated 16.01.2026 allowed the Petition directing the Accused to pay interim compensation of Rs.9.00 lakhs, which is equivalent to 20% of the cheque amount, to the complainant within 6 days from the date of that order. Aggrieved thereby, the present criminal revision case has been filed by the petitioner/Accused seeking to set aside the order impugned.

3. Heard Sri P.Nagendra Reddy, learned counsel for the Petitioner and Ms.Suryadevara Sirisha, learned counsel for the respondent No.2 and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor for respondent No.1/State. Perused the material on record.

4. Learned counsel for the Petitioner would submit that Sections 143-A of N.I.Act is not applicable to the facts of the case and payment of compensation of 20% of the cheque amount is not mandatory. Further, the calendar case is coming for submission of sureties and the complainant came up with the petition before the Trial Court which is at premature stage. The learned counsel pointed out that Section 143A(1) of the N.I. Act uses the word 'may'. Therefore, the provision is discretionary and the learned Magistrate is not right in granting interim compensation to the complainant. Further, the existence of *prima facie*

case is essential for exercising the power under Section 143A of N.I.Act. After consideration of the merits of the complainant's case and defence of the accused, the Court must come to a conclusion of granting interim compensation. It varies from case to case depending upon the nature of the offence and in every case 20 per cent of the cheque amount as interim compensation cannot be granted.

5. On the other hand, learned counsel for respondent No.2 would submit that the petitioner/ Accused borrowed an amount of Rs.50.00 lakhs by executing promissory note and that she issued a cheque for an amount of Rs.45.00 lakhs and the same was returned with an endorsement "Funds insufficient" and he filed a complaint against the petitioner. Learned counsel would further submit that the complainant filed a petition under Section 143-A of N.I.Act seeking 20% of the cheque amount towards compensation. The provisions of Section 143-A of N.I.Act empower the Courts to pass an order on interim compensation in favour of the complainant.

6. Learned Assistant Public Prosecutor would submit that the Court may pass appropriate orders.

7. Now it is beneficial to examine the provisions of the Section 143-A of N.I.Act is to be examined and it reads as under:

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 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 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.

8. On a reading of the above provisions, this section gives the trial Court the discretion to award, pending trial, up to 20% of the cheque amount by way of interim compensation to the complainant, if the accused pleads not guilty. The provision uses the word 'may' and says nothing on how this discretion is to be guided or on what parameters it is to be exercised. When the Court deals with an application under Section 143A of the N.I. 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 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation since the said presumption is rebuttable. The question of applying the presumption would arise at the trial. Only if the complainant makes out a *prima facie* case, a direction can be issued to pay interim compensation. 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. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.

9. In the case on hand, the calendar case is posted for producing sureties and the petitioner/Accused was not served with the copy of the complaint and he was not examined under Section 251 Cr.P.C. The instant complaint is filed on 21.11.2023. It seems, immediately after filing the complaint, the complainant moved the present petition under Section 143-A of N.I.Act. It is a known fact that once the accused entered appearance on the very first effective date upon issuance of summons. Upon his examination under Section 251 Cr.P.C. it is to be known whether he pleaded guilty or claimed trial.

10. A perusal of the order impugned, the learned Magistrate did not narrate the facts of the case and no reasons are assigned for granting 20% of cheque amount as compensation that too, even when the case is not yet reached the stage of examination of the accused under Section 251 Cr.P.C. The petition filed by the complainant is at premature stage which cannot be entertained under Section 143-A N.I.Act. This Court does not find any reasons for granting 20% of the cheque amount to the complainant as interim compensation at a pre-matured stage. The impugned order is liable to be set aside.

11. Accordingly, this Criminal Revision Case is allowed. The Order dated 16.01.2026 passed in CrI.M.P.No.4037 of 2023 in CC No.400 of 2023 on the file of the Court of Additional Judicial Magistrate of First Class, Nandigama, is hereby set aside.

Pending applications, if any, shall stand closed.

DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA

*Mjl/**
09.04.2026

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Criminal Revision Case No. 303 of 2026

09.04.2026

*Mjl /**