IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 2279 of 2024

Bikash Bandhab Giri

Vs.

Sri Sukhdev Khatua @ Sukdeb & Anr.

For the Petitioner	:	Mr. Anirban Dutta, Mr. Nilay Sengupta, Mr. Sujit Banerjee.
For the Opposite Party	:	Mr. Sabyasachi Banerjee, ld. Sr. Adv., Ms. Minal Palana.
Judgment reserved on	:	25.08.2026
Judgment delivered on	:	10.09.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred being aggrieved by an order dated 6th May, 2024, passed by the learned Judicial Magistrate, 1st Class, Datan Court, Paschim Midnapore.

2. Vide the impugned order the learned trial Court being the Judicial Magistrate, Datan, Paschim Medinipur held as follows:-

> *"In appears from the case record that the complainant filed this case on 12.05.2023 and the accused appeared*

before Ld. Court on 21.07.2023 and bail was enlarged to him. The complainant made out a prima facie case against the accused punishable under section 138 of N.I. Act. Subsequently, after satisfying the prima facie material evidence on record, on 17.08.2023. Ld. Court has been pleased to examine the accused person under section 251 Cr.P.C. and substance of accusation was read over and explained to the accused under section 138 N.I. Act and the accused pleaded not guilty and claimed to be tried.

On perusing the section 143 A N.I. Act, it appears that the awarding interim compensation up to 20% of the cheque amount during the pendency of case is not mandatory but it is discretionary. The court may give such direction to the accused after satisfying prima facie materials on record. On perusing the materials on record, I am satisfied that the complainant made out prima facie case against the accused person punishable under section 138 N.I. Act. So. the complainant is entitled to get an order of interim compensation as per provision of section 143A of N.I. Act.

Hence it is:

ORDERED

The petition filed the complainant under section 143A of N.I. Act is hereby considered and allowed on contest without order of costs.

The accused is hereby directed to pay interim compensation to the complainant 20% of the cheque amount i.e. 20% of 50.00 Lakh i.e. Rs. 10.00 lacs within 60 days from the date of passing of this order."

3. The petitioner has relied upon an order granting anticipatory bail to the petitioner herein passed by a Coordinate Bench in CRM(A) 5230 of 2023 wherein the Court while granting anticipatory bail observed as follows:-

> *"Apparently, the liability arises out of a commercial transaction between a seller and a buyer. Apparently, there is a written acknowledgement of liability. De facto complainant is yet to initiate any civil suit for recovery of the money due and payable on account of price of goods sold and delivered.* ***The cheques issued by the petitioner were presented for payment and dishonoured.*** *Proceedings under Section 138 of the Negotiable Instruments Act are pending in respect thereto. Thereafter, the present police complaint was lodged.*
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> *In such circumstances, we grant anticipatory bail to the petitioner."*

4. The complainant in their affidavit-in-opposition has stated that the parties had a business transaction which was being run in good faith and trust.

5. It is the case of the complainant that the petitioner after receiving the paddy worth Rs.2,50,00,000/- provided the same to the State Government in order to keep his goodwill with the state authority as well as in the local market. He did not repay any part of his dues of Rs.5,30,89,143/- which he committed to pay in writing on 11.04.2021.

6. In reply the petitioner has stated as follows:-

> *"a. In the year 2019, I had acquired 33% partnership share in a Rice Mill, under the name and style of M/s Baba Loknath Rice Mill.*

b. The impugned complaint is based on all false and concocted stories only to frame myself and my wife, in a criminal proceeding. That the opposite party no. 1 is all along black mailing me and grabbing one after another property, contending inter alia that, as if, there was huge dues, in his book, in my name. On several occasions, I had demanded the accounts showing due on my part, if any, but same has not been supplied till now.

c. In the month of November 2021, I was told by the opposite party no.1, that there was a dues of Rs.12,50,000/- only and if one of my landed property be sold to him, he will not demand any further amount of money from me.

d. Under the aforesaid threat and coercion, on or about 30th November, 2021, he forced me and my wife to execute a sale deed, in respect of one landed property, but in actual he did not pay a single penny as consideration amount. Although it was voidable deed, till date, under the continuous threat of the opposite party no. 1. I have till now, not taken any steps for cancellation of said deed."

7. The petitioner's case is that the case has been initiated under Section 138 of the N.I. Act by using **blank security cheques,** issued by the petitioner to the complainant. The petitioner thus prays for setting aside of the impugned order on the ground of it being an unreasoned order.

8. The petitioner has relied upon the judgments of the Hon'ble Supreme Court in ***Rakesh Ranjan Shrivastava vs. The State of Jharkhand & Anr. in Criminal Appeal No.741 of 2024.***

9. It is stated that the said order has been passed as a matter of right and no reasons have been provided by the Court, in spite of the fact that the complainant could not prima facie substantiate his case against the petitioners. The petitioner has further relied upon the judgment of Delhi High Court in the case of ***JSB Cargo & Freight Forwarder Pvt. Ltd. vs. State & Anr.*** **reported in 2021 SCC Online Del 5425**.

10. The Hon'ble Supreme Court in ***G.J. Raja vs. Tejraj Surana in Criminal Appeal No. 1160 of 2019***, held on the point of Section 143 N.I. Act being prospective as follows:-

> *"**9.** A reading of Section 143A shows (i) interim compensation must not exceed 20% of the amount of the cheque; (ii) it must be paid within the time stipulated under Sub-Section (3); (iii) if the accused is acquitted, the complainant shall be directed to pay to the accused the amount of interim compensation **within interest at the bank rate;** (iv) the interim compensation payable under said Section can be recovered as if it were a fine under Section 421 of the Code of Criminal Procedure, 1973 ('the Code', for short); and (v) if the accused were to be convicted, the amount of fine to be imposed under Section 138 of the Act or the amount of compensation to be awarded under Section 357 of the Code would stand reduced by the amount paid or recovered as interim compensation.*
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> ***10.** Since Sub-Section (5) of Section 143A stipulates that the interim compensation could be recovered as it if were a fine under Section 421 of the Code, said Section 421 also needs to be considered at this stage. Section 421 appears in Chapter XXXII of the Code which Chapter deals with 'Execution, Suspension, Remission and Commutation of Sentences'. By very context and the language of the provisions contained in the Chapter, they apply in cases where the guilt of an accused is determined and he is convicted of an offence punishable with sentence and/or fine. Part-C of the Chapter deals with 'Levy of Fine' and Section 421 appearing in said Part-C is to the following effect :-*
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> *"**421. Warrant for levy of fine. –** (1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the folloging ways, that is to say, it may-*

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the District, authorizing him to realize the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter.

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under Section 357.

(2) The State Government may make rules regulating the manner in which warrant under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realize the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law :

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

11. *According to Section 421 of the Code, fine could be recovered either by warrant of attachment or sale of movable property belonging to the offender or by issuance of warrant to the Collector authorizing him to realize the amount as arrears of land revenue from the movable or immovable property or both of the defaulter.*

12. *It is thus clear that in case an accused, against whom an order to pay interim compensation under Section 143A of the Act is passed, fails or is unable to pay the amount of interim compensation, the process under Section 421 can be taken resort to which may inter alia result in coercive action of recovery of the amount of interim compensation as if the amount represented the arrears of land revenue. The extent and rigor of the procedure prescribed for such recovery may vary from State to State but invariably, such procedure may visit the person concerned with coercive methods."*

11. The Supreme Court in ***Noor Mohammad vs. Khurram Pasha*** in **Special Leave Petition (Criminal) No. 2872 of 2022** which reads as follows:-

*"**11.** Before we examine the matter in issue, we may extract the relevant provision namely Section 143A of the Act, which is to the following effect :-*

*"**143A. 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 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 years, 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."

***12.** After empowering the Court to pass an order directing the accused to pay interim compensation under Sub-Section (1) of Section 143A, Sub Section (2) then mandates that such interim compensation should not exceed 20 per cent of the amount of the cheque. The period within which the interim compensation must be paid is stipulated in Sub-Section (3), while Sub-Section (4) deals with situations where the drawer of the cheque is acquitted. Said Sub-Section (4) contemplates repayment of interim compensation along with interest as stipulated. Sub-Section 5 of the said Section 143A then states "the interim compensation payable under this Section can be recovered as if it were a fine". The expression interim compensation is one which is "payable under this Section" and would thus take within its sweep the interim compensation directed to be paid under Sub-Section (1) of said Section 143A.*

13. *The remedy for failure to pay interim compensation as directed by the Court is thus provided for by the Legislature. The method and modality of recovery of interim compensation is clearly delineated by the Legislature. It is well known principle that if a statute prescribes a method or modality for exercise of power, by necessary implication, the other methods of performance are not acceptable. While relaying on the decision of the Privy Council in* ***Nazir Ahmad vs. King Emperir****, a Bench of three Judges of this Court made the following observations in* ***State of Utter Pradesh vs. Singhara Singh & Ors.***

"7. *In Nazir Ahmed case, 63 Ind App 372; (AIR 1936 PC 253(2)) the Judicial Committee observed that the principle applied in Taylor v. Taylor [(1875) 1 Ch D 426, 431] to a court, namely, that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all that other methods of performance are necessarily forbidden, applied to judicial officers making a record under Section 164 and, therefore, held that the Magistrate could not give oral evidence of the confession made to him which he had purported to record under Section 164 of the Code. It was said that otherwise all the precautions and safeguards laid down in Section 164 and 364, both of which had to be read together, would become of such trifling value as to be almost idle and that "it would be an unnatural construction to hold that any other procedure was permitted than that which is laid down with such minute particularity in the sections themselves".*

8. *The rule adopted in Taylor v. Taylor (1875) 1 Ch D 426, 431] is well recognized and is founded on sound principle. Its re sult is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of its made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The Section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him."*

*In **J.N. Ganatra vs. Morvi Municipality,** exercise of power of dismissal having not been done I n conformity of the Act, the same was set aside.*

It was stated :-

***"4.** We have heard the learned counsel for the parties. We are of the view that the High Court fell into patent error in reaching the conclusion that the dismissal of the appellant from service, in utter violation of Rule 35 of the Rules, was an "act done in pursuance or execution or intended execution of this Act…" It is no doubt correct that the General Board of the Municipality had the power under the Act to dismiss the appellant but the said power could only be exercised in the manner indicated by Rule 35 of the Rules. Admittedly, the power of dismissal has not been exercised the way it was required to be done under the Act. It is settled proposition of law that a power under a statute has to be exercised in accordance with the provisions of the statute and in no other manner. In view of the categoric finding given by the High Court to the effect that the order of dismissal was on the face of it illegal and void, we have no hesitation in holding that the dismissal of the appellant was not an act done in pursuance or execution or intended execution of the Act. The order of dismissal being patently and grossly in violation of the plain provisions of the Rules. It cannot be treated to have been passed under the Act."*

*In **Commissioner of Income Tax, Mumbai vs. Anjum M.H. Ghaswala**, a Constitution Bench of this Court stated the normal rule of construction in such cases as under :-*

*"**27.** Then it is to be seen that the Act requires the Board to exercise the power under Section 119 in a particular manner i.e. by way of issuance of orders, instructions and directions. These orders, instructions and directions are meant to be issued to other Income Tax Authorities for proper administration of the Act. The Commission while exercising its quasi-judicial power of arriving at a settlement under Section 245-D cannot have the administrative power of issuing directions to other Income Tax Authorities. It is a normal rule of construction that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. If that be so, since the Commission cannot exercise the power of relaxation found in Section 119(2)(a) in the manner provided therein it cannot invoke that power under Section 119(2)(a) to exercise the same in its judicial proceedings by following a procedure contrary to that provided in sub-section (2) of Section 119."*

***14.** The concerned provision nowhere contemplates that an accused who has failed to deposit interim compensation could be fastended with any other disability including denial of right to*

cross-examine the witness examined on behalf of the complainant. Any such order foreclosing the right would not be within the powers conferred upon the Court and would, as a matter of fact, go well beyond the permissible exercise of power."

12. In the present case, prima facie the cheques were issued by the petitioner and on being presented for payment were dishonoured.

13. Thus, in view of the present position of law as laid down, the order under revision being in accordance with law and causing no prejudice to the petitioner/accused, requires no interference by this court.

14. **The revisional application being CRR 2279 of 2024 is accordingly dismissed.**

15. The order dated 6th May, 2024, passed by the learned Judicial Magistrate, 1st Class, Datan Court, Paschim Midnapore, **is hereby affirmed.**

16. No order as to costs.

17. All connected applications, if any, stands disposed of.

18. Interim order, if any, stands vacated.

19. Copy of this judgment be sent to the Trial Court for compliance.

20. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)