

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATSRINAGAR**

[Through Virtual Mode]

**CRM (M) No. 777/2025
CrIM No. 1951/2025**

Tafazul Fazili

... Petitioner(s)

**Through: -
Mr Umar Mir, Advocate.**

V/s

Sabzar Ahmad Bandh

... Respondents

CORAM:

HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE

(ORDER)

11.12.2025

01. The Petitioner, through the medium of the instant Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeks quashment of Order dated 7th of March, 2025 passed by the Court of learned Special Mobile Magistrate, PT & E, Srinagar in the Complaint filed by the Complainant/ Respondent herein under Section 138 of the Negotiable Instruments Act, 1881 (for short "the N. I. Act") titled '**Sabzar Ahmad Bandh v. Tafazul Fazili**', whereby the learned Trial Magistrate has ordered interim relief to the tune of 10% of the amount involved in the cheques in question, i.e., Rs. 6,10,000/- (rupees six lacs and ten thousand only), in favour of the Complainant/ Respondent herein.

02. From the perusal of the file, it appears that the Respondent herein, on 23rd of August, 2022, filed a Complaint against the Petitioner under Section 138 of the N. I. Act, wherein he alleged dishonour of cheques amounting to Rs. 61,00,000/- lacs (rupees sixty-one lacs only). Alongside the aforesaid Complaint, the Respondent had also moved an application seeking invocation of powers vested under Section 143A of the N. I. Act for

directing the accused/ Petitioner herein to pay 20% of the amount involved in the cheques. It is in the said application the learned Trial Magistrate has passed the Order impugned, thereby directing the Petitioner to pay compensation to the tune of Rs. 6,10,000/- (rupees six lacs and ten thousand only) in favour of the Complainant/ Respondent herein.

03. Learned Counsel appearing for the Petitioner submits that the Order impugned lacks any reasoned justification for directing payment of 10% interim compensation under Section 143A of the N. I. Act, as such, rendering the same arbitrary and unsustainable. He further submits that the said provision of law empowers the concerned Magistrate to order interim compensation in a manner as it may deem appropriate with the application of judicial mind, supported by reasons and also keeping in view the mandate of law as laid down by the Hon'ble Supreme Court. In support of his contentions, the learned Counsel for the Petitioner has referred to and relied upon the Judgment rendered by the Hon'ble Supreme Court in a case titled '**Rakesh Ranjan Srivastava V. State of Jharkhand; 2024 SCC Online 309**'.

04. Heard learned Counsel for the Petitioner and perused the pleadings on record.

05. The petitioner has directly come to this Court to assail the order passed by the Magistrate. It is to be seen as to whether the petitioner had no other alternate and efficacious remedy. For this purpose, it is to be seen as to whether the order impugned is final, intermediate or interlocutory. The principle governing the subject, is that if the order under challenge culminates the criminal proceedings as a whole or finally decides the rights and liabilities of the parties, then order passed is not interlocutory, in spite of the fact that it was passed during the interlocutory stage. The feasible test is that after considering the objections raised by the party, it would result in culminating the proceedings, if so, any such order passed on such objections would not be merely interlocutory in nature as envisaged in Section 438(2) BNSS.

06. The order passed on an application filed under Section 143A of the Negotiable Instruments Act is not interlocutory order but an intermediate order, as the application is filed and the application is closed, under the said provision determining the rights and liabilities of the parties, qua the application and revision petition before the Court of Sessions qua order passed by the learned Magistrate under Section 143 A either allowing the application or rejecting it, would be maintainable for the aggrieved party, be it complainant or the accused, who approach.

07. In the backdrop of what has been stated hereinabove, it is held that after hearing both the sides on an application moved under Section 143 A of the Act, the order passed thereon is not an interlocutory order but an intermediate order which can be subjected to challenge in a revision petition before the Sessions Court. The petitioner has not chosen alternate and efficacious remedy and has directly come to this court invoking the inherent jurisdiction of this court. As such, this petition is not maintainable in view of alternate efficacious remedy.

08. Having regard to the aforesaid discussion, the petition is found to be misconceived and is liable to be dismissed. The petition, is thus, ***dismissed in limine***. The petitioner, however, shall be at liberty to avail the alternate and efficacious remedy available to him.

(M.A Chowdhary)
Judge

Srinagar
15.12.2025
Raj Kumar