

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-37656-2017(O&M)
Date of decision:-15.2.2018**

Smt.Sunita

...Petitioner

Versus

M/s Shree Kalki Narayan Traders

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Kunal Dawar, Advocate
for the petitioner.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of order dated 21.9.2017 passed by learned Sessions Judge, Faridabad, to the extent whereby a condition has been imposed upon the petitioner to deposit an amount of Rs.7,50,000/- in the shape of a bank draft or bank guarantee within 15 days in the application under Section 389(3) Cr.P.C. moved by her along with the appeal against the judgment dated 4.8.2017/23.8.2017 passed by Judicial Magistrate Ist Class, Faridabad convicting her under Section 138 of Negotiable Instruments Act in complaint No.14636 dated 30.9.2014 has been filed by petitioner – Smt.Sunita.

I have heard learned counsel for the petitioner besides going through the record and I do not find anything wrong with the impugned order much less the direction with regard to furnishing bank draft in favour of complainant for an amount of Rs.7,50,000/- i.e. half of

the cheque amount or the bank guarantee to that extent within fifteen days of passing of the order.

On a complaint under Section 138 of Negotiable Instruments Act filed by the complainant M/s Shree Kalki Narayan Traders village and Post Office Sikri, Tehsil Ballabgarh, District Faridabad against accused Smt.Sunita wife of Sh.Uggarsen, resident of House No.1334, Sector-3, Ballabgarh, Faridabad, Judicial Magistrate Ist Class, Faridabad vide his judgment dated 4.8.2017 convicted the accused for the said offence and vide order dated 23.8.2017 sentenced the accused/convict to undergo imprisonment for a period of one year and to pay a compensation to the complainant to the tune of Rs.22,50,000/-. Feeling aggrieved by said judgment of her conviction and order of sentence, accused had filed an appeal before the Court of Sessions, which came up for hearing and on an application for suspension of sentence, learned Sessions Judge, Faridabad had passed the impugned order. While passing the order, learned Sessions Judge, Faridabad has placed reliance on the observations made in authority **Dalip S. Dahanukar Versus Kotak Mahindra Co. Ltd. 2007(2) RCR(Criminal) 636** by the Apex Court wherein it had been observed as under:

- i) In a case of this nature, Sub-Section (2) of [Section 357](#) of the Code of Criminal Procedure would be attracted even when Appellant was directed to pay compensation;
- ii) The Appellate Court, however, while suspending the sentence, was entitled to put the appellant on terms. However, no such term could be put as a condition precedent for entertaining the appeal which is a constitutional and statutory right;

- iii) The amount of compensation must be a reasonable sum;
- iv) The Court, while fixing such amount, must have regard to all relevant factors including the one referred to in Sub-Section (5) of 357 of the Code of Criminal Procedure;
- v) No unreasonable amount of compensation can be directed to be paid.

Keeping in view the cheque amount of Rs.15 lakhs and compensation awarded by trial Magistrate of Rs.22,50,000/-, the direction issued to the appellant to deposit Rs.7,50,000/- cannot be aid to be unreasonable or harsh. The petitioner is feeling aggrieved without any reason and there is no ground to accept the petition and set aside the condition regarding deposit of Rs.7,50,000/- in form of bank draft or bank guarantee.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

15.2.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No