

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No.5 of 2019**

Sushil Kumar Gupta, S/o Late Kunjbihari Lal Gupta, aged about 65 years, resident of Ramanujganj Road, Near Sanjay Park, Ambikapur, District Surguja, Chhattisgarh

**---- Applicant**

**versus**

Shriram Transport Finance Company Limited, Branch Office Ambedkar Chowk, Near Central Bank Namnakala, Ambikapur, District Surguja, Chhattisgarh through Branch Manager Rajiv Sharma, S/o R.L. Sharma, aged about 33 years, Occupation Service, Shriram Transport Finance Company Limited, Branch Office Ambedkar Chowk, Ambikapur, District Surguja, Chhattisgarh

**--- Respondent**

|                |   |                               |
|----------------|---|-------------------------------|
| For Applicant  | : | Shri Sunil Tripathi, Advocate |
| For Respondent | : | None                          |

**Hon'ble Shri Justice Arvind Singh Chandel**

**Order on Board**

**15.1.2019**

1. Heard on admission.
2. The instant revision has been preferred against the order dated 13.11.2018 passed by the 1<sup>st</sup> Additional Sessions Judge, Ambikapur in Criminal Appeal No.131 of 2018, whereby the Additional Sessions Judge, while allowing the application under Section 389 of the Code of Criminal Procedure, has ordered that on making deposit of Rs.2,20,000/-, i.e., 50% of the total compensation of Rs.4,40,000/-, the jail sentence imposed upon the Applicant and making deposit of remaining 50% of the compensation shall remain suspended.
3. Learned Counsel appearing for the Applicant submits that following

amendment has taken place in the Negotiable Instruments Act:

**“3. In the principal Act, after section 147, the following section shall be inserted, namely:—**

**“148. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:**

**Provided that the amount payable under this sub-section shall be in the addition to any interim compensation paid by the appellant under section 143A.”**

He submits that according to the above amendment, minimum 20% of the amount of compensation can be ordered to be deposited. But, in the instant case, the jail sentence of the Applicant has been suspended subject to deposit of 50% of the compensation. He further submits that the Applicant is unable to deposit 50% of the compensation, therefore, his sentence may be suspended on making deposit of 20% of the compensation.

4. Having heard Learned Counsel appearing for the Applicant on admission, I have also perused the material available with due care.
5. Taking into consideration the facts and circumstances of the case, the above-referred to amendment of the Negotiable Instruments Act and considering that 50% of the compensation is a higher amount for the Applicant to deposit, it is directed that on making deposit of 20% of the compensation before the Trial Court within a

period of 15 days from the date of receipt of a copy of this order, the jail sentence imposed upon the Applicant and making deposit of remaining 80% of the compensation shall remain suspended till disposal of Criminal Appeal No.131 of 2018 pending before the Appellate Court.

6. As a consequence, the instant revision stands disposed of in the aforesaid terms.

Sd/-

**(Arvind Singh Chandel)**  
**Judge**