

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

115

Criminal Revision No.1657 of 2019

Date of decision : 17.07.2019

Shamsher Singh

... Petitioner

Versus

Ram Mehar Singh

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Shekhar Choudhary, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner has impugned the order dated 18.04.2019 whereby the Appellate Court while admitting the appeal preferred by the petitioner against his conviction under Section 138 of the Negotiable Instruments Act, 1881, (hereinafter referred to, 'the Act') has directed the petitioner to deposit 1/3rd of the compensation amount as determined by the trial Court within one month.

Learned counsel for the petitioner contends that the petitioner is a small farmer and it is difficult for him to deposit 1/3rd of the amount before the final hearing of his appeal.

The case of the complainant is that a cheque issued by the petitioner for a sum of ₹ 9 lacs on 14.01.2016 had been dishonored due to insufficient funds. He further contends that the blank cheque issued by the petitioner had been misused by the complainant who is a commission agent. The petitioner is an illiterate farmer and was not aware of the intricacies with regard to the commercial dealings. He also contends that the direction for deposit of 1/3rd of the compensation is highly excessive especially when an amendment in Section 148 of the Act has been introduced in the year 2018 which stipulates 20 % of the amount as the minimum requirement and in view of the financial capacity of the petitioner, amount beyond 20% would not be just and reasonable.

Heard.

The amendment in the Act was introduced in the year 2018 whereby the Appellate Court is empowered to direct the appellant to deposit minimum of 20% of the amount of compensation awarded by the trial Court. The applicability of this amendment to the on-going cases has been settled by this Court in the case of **M/s Ginni Garments and another vs. M/s Sethi Garments**, in **CRR No.9872 of 2018, decided on 04.04.2019**. It is, thus, permissible for the Appellate Court to direct the payment of compensation for the hearing of the appeal.

I am, however, of the view that in the facts and circumstances of the case, especially keeping in view the status of the parties as the petitioner is stated to be a small farmer, pre-deposit of 1/3rd of the compensation appears to be excessive. In view of this modification which I intend in the order of the Appellate Court, I do not deem it necessary to issue notice to the respondents. The order of the Appellate Court needs to be modified to the extent that instead of 1/3rd of the compensation amount, the petitioner (appellant therein) be asked to deposit 20% of the compensation amount which appears to be just and reasonable.

Consequently, the order dated 18.04.2019 passed by the Appellate Court is modified to the extent that the petitioner shall pay 20% of the compensation amount instead of 1/3rd of the compensation amount within a period of one month from the date of receipt of copy of this order.

The petition stands disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

July 17, 2019

sonia gugnani

Whether speaking/reasoned : Yes
Whether Reportable : Yes/No