

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

CRR No. 1763 of 2019 (O&M)

Date of decision: 30.10.2019.

Virender Arya

..... Petitioner.

Versus

Rohtash and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. P.R. Yadav, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 06.06.2019 passed by the Appellate Court whereby the petitioner has been directed to pay 20% of the cheque amount.

Learned counsel for the petitioner contends that the trial Court while sentencing the petitioner under Section 138 of the Negotiable Instruments Act, 1885 ('NI Act' - for short) had directed him to pay ₹9,00,000/- to respondent No.1 (complainant) as compensation in terms of Section 357 of the Code of Criminal Procedure, 1973. It was also clarified by the trial Court that the payment of compensation shall be subject to the decision of the appeal, if any, preferred by the petitioner. He also contends that as the trial Court had directed that the payment of compensation shall be subject to the decision of the appeal, the Appellate Court could not have directed the petitioner to pay 20% of the cheque amount during pendency of the appeal.

Heard.

I do not find any merit in the contention of learned counsel for the petitioner that as the trial Court had directed that the payment of compensation

shall be subject to the decision of the appeal, the Appellate Court was not competent to impose the condition of payment of 20% of the cheque amount. In terms of Amendment Act No. 20 of 2018, Section 148 has been incorporated in the NI Act whereby it has been made open to the Appellate Court to order the appellant to deposit such amount which shall be a minimum of 20% of the fine or compensation awarded by the trial Court. It has also been clarified that this amount shall be in addition to any interim compensation paid by the appellant under Section 143A of the NI Act. It has been held by the Supreme Court in the case of Surinder Singh Deswal @ Col. S.S. Deswal and others vs. Virender Gandhi, Criminal Appeal Nos.917-944 of 2019 [arising out of SLP (Criminal) Nos.4948-4975/2019] decided on 29.05.2019, that the amendment to Section 148 of the NI Act shall have retrospective effect and shall be applicable to all the pending cases even wherein the complaints were filed prior to 01.09.2018.

Consequently, I do not find any merit in the instant petition which stands dismissed.

At this stage, learned counsel for the petitioner contends that as the financial condition of the petitioner is not good and he has suffered huge loss in his business, he may be granted two weeks' more time to deposit 20% of the cheque amount as directed by the Appellate Court.

The petitioner shall deposit 20% of the cheque amount before the Appellate Court within two weeks from now.

(ANUPINDER SINGH GREWAL)
JUDGE

30.10.2019
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No