

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

130

Criminal Misc. No.M-40128 of 2019

Date of decision : 26.09.2019

M/s Flexituff Industries and others

... Petitioners

Versus

M/s SABIC Innovative Plastics India Pvt. Ltd. and another

.. Respondents

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Vipin Pal Yadav, Advocate for the petitioners.

Mr. Munish Gupta, Advocate for respondent No.1.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the impugned order dated 10.04.2019 passed by the Appellate Court whereby the petitioner (accused) was directed to deposit 20% of the compensation amount awarded by the trial court on or before the date fixed i.e. 27.09.2019 in terms of Section 148 of the Negotiable Instruments Act, 1881 (NI 'Act' -for short).

Learned counsel for the petitioner contends that the sentence of the petitioner had been suspended by the Appellate Court by order dated 10.04.2019. He also contends that the condition to deposit 20% of the cheque amount could not have been imposed subsequently by the Appellate Court. He also contends that deposit of 20% of the cheque amount, which has been introduced through Section 148 of the NI Act, could not have retrospective operation, as it was brought in force on 04.08.2018, while the complaint in the instant case has been filed on 03.11.2016.

Heard.

The question with regard to the prospective operation of the amendment has been elaborately dealt by a Coordinate Bench of this Court in ***Criminal Misc.-M-16741 of 2019, decided on 22.04.2019***, wherein it has been held that Section 148 of the NI Act shall be applicable to the appeals as the procedure for recovery of fine or compensation from appellant in pending appeal already existed in Cr.P.C. even before the amendment which has been upheld by Supreme Court in the case of **Surinder Singh Deswal @ Col. S.S. Deswal and others vs. Virender Gandhi**, in **Criminal Appeal Nos.917-944 of 2019 (arising out of SLP (Criminal) Nos.4948-4975/2019**, dated 29.05.2019.

At this juncture, learned counsel for the petitioner submits that the petitioner is in financial difficulty and was legitimately pursuing his legal remedy, therefore, he may be granted some time to deposit 20% of the cheque amount. The Supreme Court in the case of **Surinder Singh Deswal (supra)** had granted four weeks' further time to the appellants therein to make the payment.

Consequently, I do not find any infirmity in the impugned order and therefore, the petition stands dismissed. However, the petitioner shall deposit 20% of the cheque amount as directed by the lower Appellate Court by 27.10.2019.

(ANUPINDER SINGH GREWAL)
JUDGE

September 26, 2019
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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes/No