

CRM-M-4610 of 2020

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

CRM-M-4610 of 2020
Date of Decision: 03.02.2020

Manu Partap @ Monu

...Petitioner

Versus

Vinod Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. K.S. Dhanora, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 04.01.2020 (Annexure P-4) of the trial Court, directing the petitioner to pay 20% of the cheque amount as per amendment in the Negotiable Instruments Act, 1881 (in short 'the Act') under Section 143-A.

Briefly, respondent-complainant filed a complaint under Section 138 of the Act against petitioner. During its pendency, respondent moved application under Section 143-A of the Act for directing the petitioner to pay 20% of the cheque amount, which was allowed by the trial Court vide order dated 04.01.2020 impugned herein.

Learned counsel for the petitioner *inter alia* contends that newly added provision of Section 143-A of the Act is not applicable to the proceedings already pending in trial Court before its introduction.

Therefore, impugned order of the trial Court is not sustainable in the eyes of

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law. In support of his contention, learned counsel placed reliance upon judgment of this Court in ***M/s Ginni Garments and another v. M/s Sethi Garments and another***, 2019(2) R.C.R.(Criminal) 833.

Having given thoughtful consideration to the above submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Section 148 of the Act was also inserted in the amended Act on 01.09.2018 with prospective effect. However, lower appellate Courts in several cases directed the accused to deposit 20% of the cheque/compensation amount, treating the said provision retrospective in nature. Consequently, several accused approached the higher Courts throughout the country. Ultimately, Hon'ble Supreme Court in ***Surinder Singh Deswal @ Col. S.S. Deswal and others v. Virender Gandhi***, 2019(3) R.C.R.(Criminal) 186 held that Section 148 of the Act has retrospective operation and lower Courts can pass order directing the accused to deposit 20% of the cheque/compensation amount, even in the cases filed prior to the amendment.

In view of dictum of the Hon'ble Supreme Court ***Surinder Singh Deswal*** (supra), judgment of this Court in ***M/s Ginni Garments and another v. M/s Sethi Garments and another***, 2019(2) R.C.R.(Criminal) 833, for Section 143-A of the Act, which is pari materia to Section 148 of the Act, has to be ignored, taking into account that the legislature in its wisdom inserted the aforesaid Sections, considering the hardships of the complainants that even after legal fight for several years, they gain nothing.

By the time, they succeed to reap the fruit of their complaint under Section

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138 of the Act, they spent huge amount, energy and their precious time.

Deposit of 20% of the cheque amount in Court is otherwise equitable inasmuch as none of the parties, even accused, who deposits the same, loses anything for the reason that in many cases, trial Court or the appellate Court converts the same in some FDR/STDR in a bank, fetching maximum rate of interest with the observation to disburse the same, whosoever, shall finally be entitled to it on decision of complaint/appeal. In the instant case also, petitioner is not going to suffer any loss, in case, impugned order is modified to the extent that the amount of 20% shall be disbursed to the respondent-complainant against security/surety.

Ordered accordingly.

Petition stands disposed of.

February 03, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No