

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

CRR-1064-2020

Date of decision : August 13, 2020

VikasWalia

.....Petitioner

Versus

State of UT, Chandigarh and another

....Respondents

2.

CRR-1061-2020

VikasWalia

.....Petitioner

Versus

State of UT, Chandigarh and another

....Respondents

3.

CRR-1065-2020

VikasWalia

.....Petitioner

Versus

State of UT, Chandigarh and another

....Respondents

4.

CRR-1066-2020

VikasWalia

.....Petitioner

Versus

State of UT, Chandigarh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Aman Arora, Advocate for the petitioner.

Mr. A.M. Punchhi, PP, for UT, Chandigarh.

Mr. Vivek Goyal, Advocate for respondent No. 2.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing
due to outbreak of the pandemic, COVID-19.

This order shall dispose of CRR Nos.1061, 1064, 1065, 1066 of 2020
as identical controversy is involved for consideration in all these revision petitions.

The petitioner in all the four revision petitions has challenged order dated 06.07.2020 passed separately in four matters, by the learned Additional Sessions Judge, Chandigarh.

For the sake of convenience, facts are being taken from CRR No. 1064 of 2020. Brief facts necessary for the adjudication of the matter are that the petitioner was convicted for the offence punishable under Section 138 Negotiable Instruments Act in as many as six separate complaints. The petitioner filed appeals in all these six matters. At the time of filing of appeal, sentence imposed upon the petitioner was suspended by the learned trial Court vide order dated 02.03.2019, which is attached as Annexure P2. Operative part of order dated 02.03.2019 reads as under:

“ Accordingly, in view of provisions of Section 148 of Negotiable Instruments Act, and ratio of above-mentioned judgment of Hon’ble Supreme Court and further, keeping in view the facts and circumstances of the case, the sentence imposed to the appellant by the learned trial Court is suspended till the pendency of the present appeal on his furnishing personal bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of trial/Illaq/Duty Magistrate within 10 days from today **subject to condition that appellant shall deposit 20% of the compensation amount imposed by the learned trial Court under section 357(3) Cr.P.C. within 60 days**(emphasis added) from the date of this Court. Hence, both the applications are disposed of accordingly. Affidavit of compliance of furnishing bail bonds be also furnished on 26.04.2019. LCR be also summoned.”

The petitioner admittedly submitted his bail bonds but did not deposit 20% of the amount within 60 days as directed. The petitioner sought extension of time for deposit of the amount, which was rejected. The petitioner filed separate petitions before this High Court, challenging the imposition of the condition of

deposit of 20% of the amount as above. CRM-M-15007-2019 was dismissed on 13.05.2019 and CRM-M-13681-2019 of 2019 was dismissed on 17.07.2019. Specific reference was made in these orders to the judgments of the Hon'ble Supreme Court in **M/s Ginni Garments and another versus M/s Sethi Garments and another 2019 (2) RCR (Criminal) 833** and **Surinder Singh Deswal @ Col.S.S. Deswaland others versus Virender Gandhi, 2019 (3) RCR (Criminal) 186**. Other petitions filed by the petitioner, seeking setting aside of the condition of deposit of 20% of the compensation amount, were also dismissed on various dates.

The petitioner approached the Hon'ble Supreme Court challenging order dated 13.05.2019 passed in CRM-M-15007-2019 but admittedly the said SLP was dismissed as withdrawn on 02.08.2019. It is observed in order dated 02.08.2019, that the matter is covered by the decision of the Hon'ble Supreme Court in Criminal Appeal Nos. 917-944 of 2019 Surinder Singh Deswal @ Col.S.S. Deswal versus Virender Gandhi decided on 29.05.2019. The petitioner was declared proclaimed offender in two of the matters. He, thereafter filed an application seeking modification of order dated 02.03.2019, which was dismissed on 04.05.2020. It is to be noted that the petitioner was ultimately arrested on 17.06.2020. Thereafter the petitioner filed applications under Section 439 Cr.P.C. seeking bail. The said applications were dismissed by the learned Additional Sessions Judge, Chandigarh vide impugned order in all the six matters. Pursuant thereto, present petitions in four of the matters have come up for hearing. The entire sequence of events is succinctly narrated in paras 4, 5 and 6 of order dated 06.07.2020, passed by the learned Additional Sessions Judge. Learned counsel for the petitioner does not dispute the factual narration in the impugned order. It is submitted that even though application under Section 439 Cr.P.C. may not have been maintainable, application under Section 389 Cr.P.C. was indeed maintainable

and the learned appellate Authority should have considered the application as one under Section 389 Cr.P.C. and should have decided the matter afresh, de hors order dated 02.03.2019, whereby the condition of deposit of 20% of the compensation amount has been imposed. Furthermore, it is vehemently argued that the petitioner could not have been arrested for non-deposit of the amount in question and the petitioner's bail cannot be made conditional on deposit of 20% of the compensation amount. The compensation amount is onerous. It is, thus, prayed that the revision petitions be allowed.

Advance copies of the petitions have been supplied to the respondents, who had joined the proceedings through video conferencing though notice has not yet been issued in this matter.

Heard.

The petitioner in all these revision petitions seeks to re-agitate the controversy, which evidently stands decided upto the Hon'ble Supreme Court of India. The petitioner clearly did not comply with order dated 02.03.2019 which has admittedly attained finality. Perusal of impugned order dated 06.07.2020 passed by the learned Additional Sessions Judge, Chandigarh shows that the said Court has duly taken into consideration, the fact that, even if the petitioner's application is treated to be one under Section 389 Cr.P.C., the same is not maintainable. No relief is made out to the petitioner especially in view of order dated 02.03.2019 which has attained finality. It was clearly not open to the learned appellate Authority to go into the controversy afresh and vary the condition of deposit of 20% of the compensation amount once order dated 02.03.2019 has attained finality. The petitioner is apparently trying to overreach and misuse the process of Court. After submission of his bail bonds, he did not deposit 20% of the compensation amount within sixty days as directed. He was ultimately arrested on 17.06.2020.

In my considered opinion, present revision petitions are clearly vexatious and call for imposition of cost. However, in view of the fervent and earnest request, addressed by learned counsel for the petitioner and accordingly taking a lenient view, cost is not being imposed. Finding the petitions to be devoid of any merit, all the aforementioned revision petitions are dismissed.

August 13, 2020
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No