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

CRM-M-48569-2021 (O&M)

Date of decision:18.11.2021

HARBANS SINGH

...Petitioner

Versus

GURWINDER SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr.Tarun Sharma, Advocate for the petitioner.

SURESHWAR THAKUR, J. (ORAL)

1. The Additional Chief Judicial Magistrate, through a decision made on 13.10.2021, upon CIS-NACT-372-2016, hence convicted the accused in respect of notice of accusation, put to him, for an offence constituted under Section 138 of Negotiable Instruments Act. Thereafter, consequent therewith, sentence of imprisonment, and, also sentence of fine, borne in a sum of Rs.1 lac, became imposed upon the convict.
2. The convict became aggrieved from the afore verdict of conviction, and, the afore consequent therewith sentence, becoming imposed upon him, by the learned trial Magistrate, and took to appeal thereagainst, before the learned Appellate Court.
3. However, the learned Appellate Court, as a pre-condition, for suspending the execution of the afore imposed sentence of imprisonment, and, also of the afore imposed sentence of fine, hence upon the convict, proceeded to direct the convict-appellant, to deposit 20% of the cheque amount, rather within 7 days.

4. The afore made order as is made on 08.11.2021 by the learned Additional Sessions Judge, Moga, is challenged before this Court.

5. The directions as made in the impugned order, upon, the convict by the learned Appellate Court, in as much as its appertaining to the convict-appellant depositing 20% of the cheque amount, as a pre-condition, for the order suspending the execution of sentences supra, imposed upon him, by the learned Convicting Court, does not require any interference, as it is a completely valid order.

6. Nonetheless the further direction made therein, by the learned Appellate Court, comprised in its directing the convict-appellant, to make the afore imperative pre-conditional deposit within 7 days, is interfereable, and, only to that extent, the challenge made to the impugned order, is allowed, and, also obviously the granting of only 7 days, by the learned Additional Sessions Judge, Moga, to the convict-appellant, for making the afore deposit, is interfered with, and, is quashed and set aside.

7. Consequently, the convict-appellant is permitted to, within three weeks hereafter deposit 20% of cheque amount, before the establishment of the learned trial Magistrate concerned. In case the afore direction is breached, thereupon, it is open for the learned Additional Sessions Judge, Moga, to draw appropriate proceedings in accordance with law against the convict-appellant.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

18.11.2021

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Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No