

S.No.115

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

CRM-M-50362 of 2021 (O&M)

Date of Decision:03.12.2021

Rohit Kumar

.....Petitioner

Vs.

M/s Varun Industries

.....Respondent

CORAM:- HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present:- Dr. Vikas Rohal, Advocate for the petitioner.

SURESHWAR THAKUR, J. (ORAL)

The petitioner faced notice of accusation for an offence constituted under Section 138 of Negotiable Instruments Act. After conclusion of the trial, the learned Magistrate concerned, made a verdict of conviction upon the accused, and, also proceeded to impose upon the convict, a sentence of rigorous imprisonment extending, upto, a period of one year and six months. Moreover, the learned Magistrate also proceeded to direct the convict to pay Rs.3,15,000/-, as compensation to the complainant.

The aggrieved convict, preferred an appeal against the afore verdict of conviction, and, the afore sentence, as became, imposed upon him, by the learned Magistrate concerned. The learned Appellate Court, upon, an application moved before him, under Section 389 Cr.P.C, proceeded to suspend the execution of the afore sentence of imprisonment imposed upon the convict, however, subject to the convict furnishing personal and surety bonds, in the sum of Rs.50,000/- each, yet with a further

condition qua the convict depositing 20% of the compensation amount, within a period of 60 days, since the making of the apposite order, hence on 01.03.2021. The order made on 01.03.2021, is challenged by the petitioner through his casting, a petition under Section 482 Cr.P.C, before this Court.

The imposition of the afore condition precedent, for hence the order suspending the execution of the sentence of imprisonment, taking effect, as made, by the learned Appellate Court, through the impugned order, made on 01.03.2021, does not suffer from any deep and pervasive illegality nor it requires to be invalidated by this Court. The reason being that the imposition of the afore condition precedent, for the order (supra) taking effect, is supported by various pronouncements, made by the Hon'ble Apex Court. Nonetheless, it appears, that the imposition of the afore condition precedent, and, relating to 20% of the compensation amount being deposited, within two months, by the petitioner herein, before the Court concerned, does minimally suffer from an illegality, inasmuch as deposit of 20% of the cheque amount, was rather required to be asked to be deposited, by the petitioner, than deposit of 20% of the compensation amount. Consequently, the impugned order is interfered with, only to the extent, that the asking from the petitioner, to deposit 20% of the compensation amount, within 60 days, before the Court concerned, is modified, to his depositing 20% of the cheque amount, within 15 days from today, before the Court concerned. Moreover, as ordered by the learned Appellate Court, the petitioner is directed to within 15 days from today, also furnish personal surety bonds, in the sums as mentioned in the order made by the learned

Appellate Court, on 01.03.2021.

Petition stands disposed of.

December 03, 2021
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(SURESHWAR THAKUR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No