

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

CRM-M-5486-2019
Reserved on: 14.03.2022
Pronounced on: 13.05.2022

Gold Field Institute of Medical Science and Research and another ...Petitioners

Versus

Dr. Maheshwar Chawla ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dinesh Arora, Advocate,
for the petitioners.

Mr. Sudhir Rana, Advocate for
Mr. Amrinder Singh, Advocate,
for the respondent.

ANOOP CHITKARA, J.

Criminal Complaint	No. HRFB03-010655-2016, NACT/2796/2016 under Section 138 of the Negotiable Instruments Act, District Faridabad.
Criminal Appeal	CNR No. HRFB01-017462-2018 CIS CRA No.1129 of 2018,

Aggrieved by the condition of depositing 20% of the compensation amount while suspending the sentence in an appeal against the conviction, the convict has come up before this Court against the condition.

2. Vide impugned judgment dated 30.11.2018, the petitioners were convicted for commission of offence under Section 138 of Negotiable Instruments Act, 1881 (for short N.I. Act). Feeling aggrieved, they had challenged the same before the Sessions Court. While suspending the sentence, vide order dated 24.12.2018, learned Additional Sessions Judge, Faridabad directed the appellant to deposit 20% of the compensation amount within two months.

3. Section 148 of the N.I. Act was amended and w.e.f. 01.09.2018 Section 148 was inserted. As per Section 148 of N.I. Act, it is within the powers of the appellate Court to order payment pending appeal against conviction. As per Section 148(1), the Appellate Court can do the same on its own without there being any application filed by the complainant.

4. In Surinder Singh Deswal v. Virender Gandhi, 2019 LawSuit(SC) 1245, Hon'ble Supreme Court holds,

[8] It is the case on behalf of the appellants that as the criminal complaints against the appellants under Section 138 of the N.I. Act were lodged/filed before the amendment Act No. 20/2018 by which Section 148 of the N.I. Act came to be amended and therefore amended Section 148 of the N.I. Act shall not be made applicable. However, it is required to be noted that at the time when the appeals against the conviction of the appellants for the offence under Section 138 of the N.I. Act were preferred, Amendment Act No. 20/2018 amending Section 148 of the N.I. Act came into force w.e.f. 1.9.2018. Even, at the time when the appellants submitted application/s under Section 389 of the Cr.P.C. to suspend the sentence pending appeals challenging the conviction and sentence, amended Section 148 of the N.I. Act came into force and was brought on statute w.e.f. 1.9.2018. Therefore, considering the object and purpose of amendment in Section 148 of the N.I. Act and while suspending the sentence in exercise of powers under Section 389 of the Cr.P.C., when the first appellate court directed the appellants to deposit 25% of the amount of fine/compensation as imposed by the learned trial Court, the same can be said to be absolutely in consonance with the Statement of Objects and Reasons of amendment in Section 148 of the N.I. Act.

5. Given above, there is no merit in the petition. However, the interest of justice would suffice if the appeal pending before the appellate Court is taken on the priority. This Court requests the learned Appellate Court to decide this appeal on top priority preferably on or before 30.07.2022.

6. The petition is dismissed with the aforesaid observations.

7. It is clarified that the Appellate Court shall proceed to decide the appeals notwithstanding even if 20% of the compensation amount is not deposited by the appellant till 31.07.2022. However, in case, the appellant seeks any adjournment, then it shall be open for the Appellate Court to appoint a legal aid counsel and to hear the appeal on merits. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.05.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.