

S.No.122

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

CRM-M-15255 of 2022

Date of Decision:13.05.2022

Pankaj BhatiaPetitioner

Vs.

Ashwani GoyalRespondent

CORAM:- HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Davinder Kumar, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition raises a challenge to the order dated 17.03.2022 (Annexure P-4) passed by learned Additional Sessions Judge, Yamunanagar in CRA No.312 of 2017 titled as Pankaj Bhatia Vs. Ashwani Goel, where the petitioner has been directed to deposit compensation to the extent of 20% in exercise of powers under Section 148 of the Negotiable Instruments Act (for short, 'the NI Act').

Learned counsel appearing on behalf of the petitioner contends that the order so passed is harsh and onerous inasmuch as the petitioner is not in capacity to pay the said amount. Besides, he submits that the culpability of the offence is yet to be finally determined and that in the absence of a determined liability, the petitioner could not have been directed to deposit the aforesaid amount, especially when the debt itself is a subject-matter of dispute. Reference is also made to the judgment passed by the Hon'ble Supreme Court in the matter of G.J. Raja Vs. Tejraj Surana, (2019) 19 SCC 469, in CRA No.1160 of 2019, to contend that the pre-deposit cannot be ordered in the appeals that have been instituted prior to the amendment of the Act.

I have heard learned counsel appearing on behalf of the petitioner. So far as proposition of law laid down by the Hon'ble Supreme Court in Criminal Appeal No.1160 of 2019, titled as **G.J. Raja Vs. Tejraj Surana**, is concerned, the same is not a subject-matter of dispute. However, the ratio of the said judgment is not applicable to the facts of the instant case. The point in issue in the said matter before the Hon'ble Supreme Court was in relation to a mandatory pre-deposit and required to be submitted by an appellant at the time of referring an appeal.

Per contra, the order in the instant case has been passed in exercise of powers under Section 148 of the NI Act. The legality of determination of the compensation in exercise of powers under Section 148 of the NI Act has been duly considered by the Hon'ble Supreme Court in the matter of **Surinder Singh Deswal Vs. Virender Gandhi, (2020) 2 SCC 514**, and the case of the petitioner would rather squarely be covered by the ratio of the said judgment as against him.

In view of the above, on other hand, there is no illegality or perversity in the order passed by the learned Additional Sessions Judge, Yamunanagar and the present petition is accordingly dismissed.

May 13, 2022

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(VINOD S. BHARDWAJ)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No