

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

136

CRM-M-41487-2022

Date of Decision: 21.11.2022

Munish Chaudhary

... Petitioner

VS.

Aman Priye Jain

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. HS Oberoi, Advocate for the petitioner

Mr. Aman Priye Jain, respondent in person

Mr. SS Narula, Advocate for the respondent

Sandeep Moudgil, J. (Oral)

(1) This order shall dispose of CRM-M Nos. 41487, 41488, 41491, 41492, 41494 of 2002 as common issue is involved for adjudication. For the sake of order, CRM-M-41487-2022 is treated as the lead case.

(2) The petitioner seeks quashing of the order dated 16.07.2022 passed by the learned ASJ, UT Chandigarh in Criminal Appeal No.96 of 2022 (Annexure P1), whereby the petitioner was directed to pay 20% of the compensation amount, as awarded by the learned trial court, in its judgment dated 13.05.2022, in NACT No.21246 of 06.12.2018 under Section 138 of the Negotiable Instruments Act.

(3) Vide order dated 09.09.2022, the case was adjourned to 30.09.2022 whereby interim stay was granted *re:* impugned order dated 16.07.2022 (Annexure P1).

(4) Thereafter, application was moved for modification of the order dated 09.09.2022 vide CRM-34340-2022 in CRM-M-41487-2022 along with applications of same nature in the connected petitions which was allowed

vide order dated 26.09.2022. This court on 26.09.2022 passed the following order:-

The present petition(s) are taken up for re-hearing on the above-cited applications.

It would not be out of context to refer to the order dated 09.09.2022 which reads as under:-

“Learned counsel for the petitioner contends that the order dated 16.07.2022 passed by learned Additional Sessions Judge, U.T., Chandigarh whereby pre-requisite condition with regard to deposit of 20% of the compensation amount as awarded by the trial Court is contrary to the statutory provisions. The said order shall come into existence with effect from 12.09.2022.

Adjourned to 30.09.2022.

In the meantime, operation of the impugned order shall remain stayed.

In case the petitioner fails to deposit 20% of the compensation amount being a pre-requisite condition by the next date of hearing, the bail as well as the main appeal shall be deemed to have been dismissed.”

These applications have been preferred for modification of the interim order dated 09.09.2022 with the assertion that the interim protection granted vide order dated 09.09.2022 may be modified as an error has crept in while staying the operation of the impugned order dated 16.07.2022 passed by the trial court with a direction that the petitioner(s) shall deposit 20% of the compensation amount as directed by the learned trial court vide the said order.

The sole grievance of the petitioner(s) was with regard to the direction that pre-requisite condition to deposit 20% of the amount of compensation vide judgment dated 13.05.2022 passed by the trial court and the impugned order dated 16.07.2022 passed by the learned Additional District & Sessions Judge, UT Chandigarh (Annexure P1).

These applications came up for hearing on 14.09.2022 before this Court and the counsel withdrew the same, at that stage. However, later in the day, this Court being sanguine of the fact that actually the order needs clarification/modification for better interpretation of the spirit of the order, ordered, posting of these applications for re-hearing on 21.09.2022. Accordingly, these applications have been listed today.

Since these applications involve similar facts and identical question of law i.e. pre-requisite condition to deposit 20% of the amount of compensation is not reasonable or not, the same are being disposed of by this common order.

The applicant/petitioner(s) have placed reliance on the order dated 07.09.2022 passed by a Coordinate Bench in CRM-M-52048-2019 (Atul Sood vs. Shishpal Singh & Anr.), wherein without adjudicating the legality of the order passed by the trial court, relief was granted for not depositing the amount of 20% of the compensation amount till the decision of the main appeal. The Coordinate Bench has also directed that the convict shall not take any adjournment and in case he does so, the trial court shall proceed further by appointing Legal Aid Counsel on his behalf.

Considering the aforesaid facts and peculiar circumstances, the order dated 09.09.2022 is modified to the extent that the petitioner(s) shall not be called upon the deposit 20% of the compensation amount till the decision of the appeal with a further direction to the petitioner(s) not to take any adjournment and shall facilitate the trial to proceed further. The trial court will also be at liberty to appoint Legal Aid Counsel in case of absence of the counsel for the petitioner(s) for assistance of the Court.

With these directions, clarification and modification, these applications are allowed.”

- (5) However, thereafter on 30.09.2022, respondent, Mr. Aman Priye Jain, was present in person along with Mr. SS Narula, Advocate and an endeavour was made to settle the matter amicably between the parties and for that purpose, to work out the modalities, it was adjourned to 17.10.2022. However, after making efforts between the parties on two occasions, the modalities for settlement could not be worked out and the respondent is not willing to enter into any kind of settlement, at this stage and shows his inclination that the criminal appeal itself, as referred to above, be heard and decided in a time bound manner.

(6) In view of the order dated 26.09.2022, the protection granted to the petitioner with regard to the non-deposit of 20% of amount of compensation is made absolute.

(7) However, since the parties are *ad idem* that the appellate court shall hear the matter and adjudicate it in a time bound manner. This Court is hopeful that appellate court may hear and adjudicate the main appeal preferably within 2 months from today.

(8) Disposed of in above terms.

21.11.2022

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No