

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52912-2021(O&M)
Reserved on:22.02.2022
Date of Decision:-16.05.2022

Parveet Singh Kathuria ...Petitioner

Versus

State of Haryana and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.S. Verma, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Sehaj Mahajann, Legal Aid Counsel for respondent No.2.

ANOOP CHITKARA, J.

Criminal Complaint	No. 212/2017 under Section 138 of the Negotiable Instruments Act, District Kaithal Date of :08.08.2018
Criminal Appeal	CRA No. 241/18 Addl. Sessions Judge, District Kaithal

Aggrieved by the order passed by learned Sessions Court to deposit 20 % of the cheque amount in the appeal preferred against the conviction, the convict has come up before this Court under Section 482 Cr.P.C. for setting aside the order dated 14.10.2021.

Vide order dated 14.10.2021, learned Additional Sessions Judge, Kaithal directed the convict-appellant to deposit 20% of the cheque amount as interim compensation to the respondent by the next date of hearing.

Learned counsel for the petition contends that direction is illegal in view of Section 148 of Negotiable Instruments Act.

REASONING

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.

Given above, it would be desirable that the Appellate court hears and expedite the hearing of the appeal and decide it before 30.07.2022. In case, the appellant-convict seeks any adjournment then the Legal Aid counsel be appointed on his behalf and the matter be proceeded to be decided on merits.

No coercive steps shall be taken for recovery of 20% of the cheque amount as ordered on 14.10.2021 till 30.07.2022.

It is clarified that in case the complainant seeks an adjournment or tries to delay the matter, such period shall be excluded from the deadline of 30.07.202.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

May 16, 2022
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Whether speaking/reasoned: Yes
Whether reportable: **No.**