

Bhag SinghPetitioner

State of Haryana and another ...Respondents

Present: Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

Brief facts of the case are that a complaint was filed by respondent No.2 against the petitioner under Section 138 of the Act on the ground of dishonouring of cheque bearing No.0000516 dated 31.08.2016 amounting to Rs.2,08,500/- issued in favour of the complainant/respondent No.2-Bank by the petitioner in discharge of his liability. Respondent No.2 filed complaint against the petitioner in which vide order dated 18.09.2023, he was convicted and sentenced to undergo simple imprisonment for a period of six months and

was further directed to pay compensation to the tune of Rs.2,08,500/- i.e. the

CRM-M-3158-2024**-2-**

amount of cheque in terms of Section 357 (3) of Cr.P.C. within a period of two months from the date of order. Thereafter, the sentence of petitioner was suspended by the learned trial Court vide order dated 18.09.2023 (Annexure P-2) for a period of one month for filing the appeal against the judgment of conviction and order of sentence. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Sessions Judge, Ambala. The learned Additional Sessions Judge, Ambala vide order dated 18.10.2023 (Annexure P-4), suspended the sentence of the petitioner in appeal under Section 389 (1) of Cr.P.C. and stayed the impugned order of sentence along with order to pay compensation of Rs.2,08,500/- under Section 357(3) of Cr.P.C. subject to furnishing of bail bonds in the sum of Rs.50,000/- with one surety in the like amount to its satisfaction or he may deposit the surety amount in cash subject to further condition that the petitioner shall deposit 20% of the total amount of compensation of Rs.2,08,500/- on or before 19.12.2023 and further learned counsel for the petitioner sought time to furnish the bail bonds till 3:00 P.M. but when the case has taken up at 03:00 P.M., none has appeared on behalf of the petitioner due to which order passed regarding suspension of his sentence was recalled and he was directed to be produced before the Court on 19.12.2023.

Learned counsel for the petitioner *inter alia* contends that vide order dated 18.10.2023 passed under Section 389 (1) of Cr.P.C., the sentence of the petitioner was suspended during the pendency of appeal before the lower Appellate Court subject to furnishing bail bonds and surety bonds in the sum of Rs.50,000/- to the satisfaction of the Court or he may deposit the surety amount in cash. It is contended that learned counsel for the petitioner before the lower

Appellate Court sought time to furnish the requisite bonds till 03:00 P.M., however, since the petitioner failed to appear before the lower Appellate Court, till 04:30 P.M. on that date, as such, order suspending his sentence was recalled by the lower Appellate Court. It is argued that the petitioner was ready to furnish the bail bonds and surety bonds, however, the lower Appellate Court directed the petitioner to produce the valuation report of property furnished by surety from the concerned *patwari*. Thereafter, the petitioner went to Naraingarh from Ambala for valuation of the report but due to non-availability of the *patwari*, he could not appear before the lower Appellate Court in time to furnish the bail bonds without the valuation report of *patwari* and consequently, the impugned order was passed recalling the order of suspension of sentence which has been challenged in the present petition.

Having heard learned counsel for the petitioner, this Court is of the opinion that non-furnishing the bail bonds before the lower Appellate Court was not intentional but due to the reason given by the petitioner. As such, the impugned order dated 18.10.2023 is hereby set aside to the extent of recalling the order of suspension of sentence of the petitioner. The petitioner is directed to surrender before the lower Appellate Court within a period of 15 days from today and on his doing so, he shall be admitted to bail by the lower Appellate court subject to his furnishing adequate bail bonds/surety bonds to its satisfaction.

The present petition stands disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

20.01.2024

Neha	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No