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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8701-2024 (O&M)
Date of decision: 19.02.2024

Narender Kumar ...Petitioner

Versus

Narender Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Petitioner in person.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/accused Narender Kumar son of Pehalwan Chand seeking quashing of orders dated 14.09.2023 (Annexure P-3) and 08.02.2024 Annexure P-4 passed by the Court of Additional Sessions Judge, Sirsa in Criminal Appeal No. CRA-329-2023 titled as Narender Kumar Vs. Narender Kumar whereby the substantive sentence of the petitioner was suspended subject to condition that he shall deposit 20% of the total amount of compensation awarded by the learned trial Court within 60 days as per provision contained in Section 148 of Negotiable Instruments Act, failing which the order of suspension of sentence shall be deemed to be vacated in view of the law laid down by the Hon'ble Supreme Court in *Surender Singh Deswal @ Col. S.S. Deswal and others Vs. Virinder Gandhi and another 2020 (1) SCC (Crl) 506*.

2. The brief facts of the case are that respondent/complainant filed criminal complaint under Section 138 NI Act against the petitioner wherein

on completion of trial the petitioner was convicted and sentenced to imprisonment and to pay a fine under Section 138 NI Act. Being aggrieved the petitioner filed an appeal against the said judgment and order passed by the trial Court and he also sought suspension of sentence during the pendency of the appeal. The appellate Court entertained the appeal and passed impugned orders Annexure P-3 dated 14.09.2023 and on 08.02.2024 petitioner made payment of Rs.2 lacs to respondent and made prayer seeking time to pay the remaining amount of Rs.2,80,000/- vide order Annexure P-4.

3. Being not satisfied, the petitioner has filed the present revision petition.

4. I have heard the petitioner.

5. The petitioner submits that impugned order Annexure P-3 was passed by the trial Court in an mechanical manner and no reason was given by the trial Court as to why, petitioner was directed to deposit 20% of compensation awarded by the trial Court, while the appeal was admitted as the same was having arguable points.

6. I have considered the submissions made by the petitioner.

7. The Hon'ble Supreme Court in ***Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. And others 2023 (10) SCC 446*** has observed that deposit of minimum 20% compensation/fine amount was not an absolute blanket rule under Section 148 of Negotiable Instruments Act while considering the request of the accused for suspension of sentence. The Hon'ble Supreme Court further observed that it was duty of the appellate Court to give reasons for imposing the condition to deposit 20% of compensation for suspending the sentence.

8. From the perusal of the impugned order it appears that the same has been passed by the appellate Court in a mechanical manner without assigning any reasons directing the petitioner to deposit 20% of the compensation amount awarded by the trial Court within 60 days. Thus, the said order is not in consonance with the law laid down by the Hon’ble Supreme Court in **Jamboo Bhandari’s case** (supra).

9. For the forgoing reasons, the present petition is allowed and the direction to deposit 20% of compensation amount is set aside. The appellate Court is directed to reconsider the application filed by the petitioner seeking suspension of sentence, after giving opportunity of hearing to petitioner and respondent, in the light of the law laid down by the Hon’ble Supreme Court in **Jamboo Bhandari’s case** (supra). Till fresh orders are passed by the appellate Court as directed above, no coercive steps shall be taken against the petitioner. The petitioner is directed to appear before the appellate Court on the date already fixed in the appeal.

10. The petition stands disposed of in aforesaid terms, without expressing any opinion on the merits of the case.

11. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feel dis-satisfied with this order, he may move an application to recall the same.

12. Pending application, if any, stands disposed of.

19.02.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No