

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

Neutral Citation No. **2024:PHHC:027729**
CRM-M-10318-2024
Date of Decision: February 28, 2024

Usha Rani

...Petitioner

Versus

Tirath Kapoor and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Mahipal S. Yadav, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

Petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881, vide judgment of conviction and order of sentence dated 15.12.2023 in complaint titled as “*Tirath Kapoor v. Usha Rani*” by the Court of learned Judicial Magistrate 1st Class, Malerkotla. Against his conviction and sentence, petitioner filed appeal. The Appellate Court while admitting the appeal on 05.01.2024 (Annexure P-4), directed the petitioner to deposit 20% of the compensation amount as awarded by the Trial Court within 60 days. It is the aforesaid order, which has been challenged by this petition.

2. Learned counsel for the petitioner contends that the petitioner was not provided any opportunity of hearing before passing the order. Petitioner is not in a position to pay any amount and there was exceptional circumstance due to which petitioner was not required to deposit 20% of the compensation amount.

3. Learned counsel for the petitioner has referred to “*Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. and others*”, Crl. Appeal No.2741 of 2023, SLP (Crl.) No.(s) 4927 of 2023.

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Learned counsel contends that the Appellate Court was required to consider as to whether the case of the petitioner falls in the exception or not.

4. Without issuing any notice to the respondent, lest it may delay the proceedings, the present petition is accepted. The impugned order is set aside. The Appellate Court is directed to pass a fresh order in the light of the law explained by the Hon'ble Supreme Court in ***Jamboo Bhandari's*** case (*supra*).

5. Since this order has been passed in the absence of the respondent, therefore, the respondent will be at liberty to approach this Court, in case he is aggrieved by the order.

February 28, 2024

sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No