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

CRM-M-12342-2024

Date of decision: 11.03.2024

Raman Kumar Parnami

....Petitioner

Versus

Bipul Bedi

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akshay Kumar Jindal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of order dated 05.01.2024 (Annexure P-3) to the extent that the petitioner has been ordered to deposit 20% of the compensation amount as awarded vide order of sentence dated 08.12.2023 (Annexure P-1).

2. The brief facts of the case are that a complaint was filed by the respondent against the petitioner alleging that brother of the petitioner, namely, Tribhuwan Kumar Parnami had procured a loan from the complainant/respondent. The accused/petitioner had stood as a guarantor for Tribhuwan Kumar Parnami who had also given property documents of plot bearing No. A1 situated at S.D.A. Gwalior and registered in the ownership of M/s M.R. Agrotech Private Limited. The accused/petitioner issued two cheques bearing No. 207544 and 207545 dated 03.06.2018 amounting to Rs.90,00,000/- each, in favour of the complainant in discharge of his liability as guarantor. On presentation, both the cheques were returned dishonoured with remarks 'Account Blocked.' Therefore, the respondent filed a complaint against the

petitioner in which he was convicted and sentenced to undergo simple imprisonment for a period of three months for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and was further directed to pay compensation to the tune of Rs.2,70,00,000/- (Rupees Two Crore Seventy Lakh Only) to the complainant/respondent. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Gurugram. The learned Appellate Court vide impugned order dated 05.01.2024 (Annexure P-3) suspended the sentence of the petitioner subject to depositing 20% of the compensation amount.

3. Learned counsel for the petitioner *inter alia* contends that the learned lower Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in **Criminal Appeal Nos.2741 of 2023 (@ SLP(Crl.) Nos. 4927 of 2023** titled as '**Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others**', decided on 04.09.2023.

Speaking through Justice Abhay S. Oka, it has been held as follows:-

"6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of petitioner who has been convicted for offence under Section 138 of the N.I. Act, it is

always open for the Appellate Court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the Appellate Court comes to the conclusion that it is an exceptional case, the reasons for coming to the said 4 conclusion must be recorded.”

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in ***Jamboo Bhandari (supra)***, the lower Appellate Court was required to consider whether the present case falls in the exception or not. The impugned order dated 05.01.2024 (Annexure P-3), whereby, the condition of depositing 20% of compensation amount has been imposed for granting suspension of sentence is hereby set aside. The learned lower Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court.

5. The matter is remanded back to the learned lower Appellate Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in ***Jamboo Bhandari's case (supra)***.

6. The present petition is disposed of accordingly

(HARPREET SINGH BRAR)
JUDGE

11.03.2024
Neha

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