

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CRR-830-2024
Date of decision : 30.04.2024

Kawaljit Singh Petitioner

versus

Punjab Gramin Bank Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gagandeep Singh Bajwa, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Present revision is directed against the order dated 11.03.2024 passed by learned Additional Sessions Judge, Amritsar, whereby the petitioner has been directed to deposit 20% of the compensation amount of Rs.10 lakhs.
2. Petitioner was summoned to face trial for offence punishable under Section 138 of the Negotiable Instruments Act (in short 'N.I.' Act) and stands convicted by the trial Court whereby compensation of Rs.10 lakhs has been awarded against him. In the appeal preferred by the petitioner, Appellate Court invoked Section 148 of the N.I. Act and directed the petitioner to deposit 20% of the compensation amount and the bail bonds/surety bonds were made subject to the said condition.
3. Counsel for the petitioner submits that in view of law laid down by Supreme Court in the case of *Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and Ors.* reported as

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Section 148 of the N.I. Act pragmatically. Reliance is being placed upon para 6 to 10 which read as under:-

“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 an accused 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 conclusion must be recorded.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

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9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.P.C. for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not.

10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception.”

4. In the considered opinion of this Court, counsel for the petitioner is right in contending that the Court is required to apply mind while deciding application filed under Section 389 seeking suspension of sentence as to whether the case pleaded by applicant calls for to impose or to dispense with condition of granting interim compensation against the accused. The impugned order does not show any such application of mind in the present case.

5. Keeping in view the very objective of enactment of Section 148 of the N.I. Act i.e. the speedy disposal of appeal, this Court finds that there is no reason to keep this petition pending before this Court or to set aside the order and direct the trial Court to pass afresh. The equities can be balanced by modifying the impugned order. Petitioner is ready to pay 10% of the cheque amount and the interest of the respondent can be safeguarded as well. Appellate Court can be directed to decide the appeal expeditiously.

6. In view of above, impugned order is modified to the extent that the petitioner shall deposit 10% amount of the compensation

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awarded by the trial Court and Appellate Court is further directed to decide the appeal expeditiously preferably within 03 months from the date of receipt of certified copy of this order.

7. With the aforesaid modification in the impugned order 11.03.2024, the present petition is disposed off.

8. Keeping in view the innocuous relief granted to the petitioner, this Court does not deem it fit to issue notice to the respondent-complainant. However, in case respondent-complainant still feels dissatisfied, he shall be at liberty to move an appropriate application seeking revival of the petition.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

30.04.2024

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Whether speaking/reasoned : Yes

Whether Reportable : No