

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20451 of 2024 (O&M)
Date of Decision: 26.04.2024

Dayanand
...Petitioner
Versus
Dharambir & Anr.
...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Piyush Aggarwal, Advocate
For the petitioner.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner/accused seeking quashing of order dated 12.02.2024 passed by the Court of Additional Sessions Judge, Charkhi Dadri in Criminal Appeal No. CRA-13-2024 titled as The Sat Saheb Coop., L&C Society Limited through its President Daya Nand Vs. Dharambir & Anr. 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 next 60 days as per provision contained in Section 148 of Negotiable Instruments Act.
2. The brief facts of the case are that respondent No.1/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 for a period of 06 months and to pay compensation worth Rs.80,00,000/- under Section 138 NI Act by the Court of Addl. Chief

Judicial Magistrate, Charkhi Dadri vide judgment and order dated 15/16.01.2024. 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 order dated 12.02.2024.

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

4. I have heard the counsel for the petitioner.

5. The counsel for the petitioner submits that deposit of minimum of 20% amount under Section 148 of Negotiable Instruments Act as a condition to suspend sentence is not an absolute rule as has been held by the Hon'ble Supreme Court in **Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. And others 2023 (10) SCC 446**. The counsel for the petitioner further submits that thus, provision of Section 148 NI Act is not mandatory and the appellate Court passed the impugned order without application of mind and that the impugned order being illegal is not sustainable in eye of law.

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

7. The Hon'ble Supreme Court in Jamboo Bhandari's case (supra) has observed that deposit of minimum 20% compensation/fine amount is 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. The appellate Court while suspending a sentence cannot pass a blanket order in all cases to deposit 20% of the compensation or fine without assigning any reason. The impugned 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 matter, 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 respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

26.04.2024
Jiten

(KARAMJIT SINGH)
JUDGE

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