

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

142

CRM-M-22386-2024
Decided on: 06.05.2024

Mukesh Kumar ...Petitioner

Versus

Sunil Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.K. Tripathi, Advocate
for the petitioners.

ANOOP CHITKARA, J.

Criminal Complaint	Criminal Case No.4426/12.07.2017 CIS No.9041/2017 CNR No.HRGR03-031606-2017 Date of decision: 27.01.2023
Criminal Appeal	CNR No.HRGR01-003521-2023 CRA-124-2023

Aggrieved by the condition of depositing 20% of the compensation amount while suspending the sentence in an appeal against the conviction, the convict has come up before this Court against the condition, on the ground that he has no money to deposit the amount.

2. The nature of the order this Court proposes to pass is that no notice is required to be issued to the respondent.

3. Vide judgment dated 27.01.2023, the petitioner was convicted for commission of offence under Section 138 of Negotiable Instruments Act, 1881 (for short N.I. Act). Feeling aggrieved, he had challenged the same before the Sessions Court. While suspending the sentence, vide order dated 22.02.2023, Additional Sessions Judge, Gurugram, directed the appellant to deposit 20% of the compensation amount within 60 days.

4. Section 148 of the N.I. Act was amended and w.e.f. 01.09.2018 Section 148 was inserted. As per Section 148 of N.I. Act, it is within the powers of the appellate Court to order payment pending appeal against conviction. As per Section 148(1), the Appellate Court can do the same on its own without there being any application filed by the complainant.

5. In Surinder Singh Deswal v. Virender Gandhi, 2019 LawSuit(SC) 1245, Hon’ble Supreme Court holds,

[8] It is the case on behalf of the appellants that as the criminal complaints against the appellants under Section 138 of the N.I. Act were lodged/filed before the amendment Act No. 20/2018 by which Section 148 of the N.I. Act came to be amended and therefore amended Section 148 of the N.I. Act shall not be made applicable. However, it is required to be noted that at the time when the appeals against the conviction of the appellants for the offence under Section 138 of the N.I. Act were preferred, Amendment Act No. 20/2018 amending Section 148 of the N.I. Act came into force w.e.f. 1.9.2018. Even, at the time when the appellants submitted application/s under Section 389 of the Cr.P.C. to suspend the sentence pending appeals challenging the conviction and sentence, amended Section 148 of the N.I. Act came into force and was brought on statute w.e.f. 1.9.2018. Therefore, considering the object and purpose of amendment in Section 148 of the N.I. Act and while suspending the sentence in exercise of powers under Section 389 of the Cr.P.C., when the first appellate court directed the appellants to deposit 25% of the amount of fine/compensation as imposed by the learned trial Court, the same can be said to be absolutely in consonance with the Statement of Objects and Reasons of amendment in Section 148 of the N.I. Act.

6. Given above, there is no merit in the petition. However, the interest of justice would suffice if the appeal pending before the appellate Court is taken on the priority. This Court requests the learned Appellate Court to decide these appeals on top priority preferably on or before 31.07.2024.

7. The petition is party allowed with the aforesaid observations. All pending applications, if any, stand disposed of. It is clarified that the Appellate Court shall proceed to decide the appeals notwithstanding even if 20% of the compensation amount is not deposited by the appellant till 31.07.2024. However, in case, the appellant seeks any adjournment, then it shall be open for the Appellate Court to appoint a legal aid counsel and to hear the appeal on merits.

(ANOOP CHITKARA)
JUDGE

06.05.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.