



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

CRM-M-25041-2024

Date of Decision: May 18, 2024

Muskan Enterprises and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Harvinder Singh Mann, Advocate for the petitioners.

DEEPAK GUPTA, J.(Oral)

While admitting appeal against the judgment of conviction recorded under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') by the Trial Court, the Court of Sessions vide impugned order dated 17.10.2022 (Annexure P-3) directed the accused-petitioner to deposit 20% of the compensation amount within a period of 60 days.

2. Petitioner challenged the aforesaid order by filing CRM-M-21715-2023, which was dismissed as withdrawn on 01.05.2023 by way of following order :-

"After arguing for some time, statement is made by learned counsel for the petitioners, so as to withdraw the petition.

In view of the aforesaid statement, present petition is dismissed as withdrawn, as prayed for."

3. Now, this second petition has been filed under Section 482 Cr.P.C. seeking quashing of the same impugned order dated 17.10.2022 (Annexure P-3).

4. Learned counsel for the petitioner contends that after dismissal as withdrawn of the earlier petition, it has been held by Hon'ble Supreme

Court in “*Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. and others*”, (2023) 10 Supreme Court Cases 446 that it is not mandatory for the accused to specially plead that the case falls in exception to the 20% minimum deposit rule and that in case the Appellate Court is satisfied that condition of deposit of 20% is unjust, the exception can be made out.

5. This Court is not at all convinced with the submission made by learned counsel for the petitioner. At the time when the earlier petition was dismissed as withdrawn, neither any liberty was sought nor was granted for filing the fresh petition on the same ground. Simply because in the meantime, legal position has been explained by Hon’ble Supreme Court, cannot be considered to be change in circumstance.

Dismissed.

May 18, 2024

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No