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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRR-1171-2024
Date of decision : 17th July, 2024**

Joginder Singh

...Petitioner

Versus

Puran Chand

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ishan Khetarpal, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant revision petition has been filed for setting aside the order dated 15.02.2024, passed by the Court of learned Additional Sessions Judge, Fazilka in Criminal Appeal No. 64 of 2024, titled as ***Joginder Singh vs. Puran Chand***, whereby, while suspending the sentence of the petitioner, as awarded to him in criminal complaint filed under Section 138 of Negotiable Instruments Act, 1881 (*for short 'N.I. Act'*), the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the trial Court within a period of 60 days from the date of passing the order.

2. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as learned appellate Court, while giving such direction, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be imposed in



exceptional circumstances. Hence, it is urged that the impugned order passed by the appellate Court is liable to be set aside. To fortify his argument, he has placed reliance upon the judgment passed by the co-ordinate Bench of this Court in CRR-2256-2023 titled as '***Davinder Kumar vs. Rajiv Kumar Soni and another***' decided on 07.12.2023.

3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction dated 23.01.2024, passed in a complaint filed under Section 138 of N. I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned section and apart from awarding sentence to undergo rigorous imprisonment for a period of one year, had also directed him to pay compensation to the tune of cheque amount i.e. Rs. 3,77,600/-. The petitioner challenged the order passed by the trial Court by filing aforesaid appeal before the learned appellate Court and the appellate Court, vide impugned order dated 15.02.2024, suspended the sentence of petitioner, subject to his depositing 20% of the compensation amount with the trial Court.

5. In ***Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others : (2024) 1 SCC (Cri) 90***, it was observed by Hon'ble Supreme Court that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the



appellant. This proposition of law is shown to have been followed by the co-ordinate Bench of this Court in ***Davinder Kumar's case (supra)***. In the instant case, while imposing condition of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned order dated 15.02.2024 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed. Accordingly, the same is set aside to that extent. The matter is remanded to learned appellate Court for deciding the same afresh after re-examining the case by granting an opportunity to the petitioner to make submissions regarding exceptional circumstances warranting waiver of requirement of depositing 20% of the compensation amount in pursuance of judgment passed by Hon'ble Supreme Court in ***Jamboo Bhandari's case (supra)***. The petition stands disposed of.

17th July, 2024*Parveen Sharma**Whether speaking/reasoned**Whether reportable***(MANISHA BATRA)****JUDGE***Yes/No**Yes/No*