

**CRM-M-31207-2024 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.127****Case No. : CRM-M-31207-2024 (O&M)****Date of Decision : July 03, 2024**

Ravjot Singh

.... Petitioner

vs.

Vijay Kumar

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Vaibhav Sehgal, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in the present petition, filed under Section 482 Cr.P.C. is to the order dated 28.03.2024 (Annexure P-4), passed by learned Additional Sessions Judge, Ludhiana (for brevity – Appellate Court) in Criminal Appeal No.9794 dated 17.11.2022, whereby the petitioner has been directed to deposit 20% of the compensation amount under Section 148-A of the Negotiable Instruments Act (hereinafter referred to as – the Act). In case of failure to deposit the said amount, it was ordered that the bail granted to the petitioner would be cancelled and he would be taken into custody.

2. The brief facts, necessary for disposal of the present petition, are that the respondent had filed a complaint under Section 138 of the Act against the petitioner on the ground that the cheque issued by the petitioner was duly presented in the bank in time but the same was dishonoured.



Thereafter, legal notice was issued to the petitioner but he failed to pay the amount of cheque. The learned Trial Court convicted the petitioner for commission of offence under Section 138 of the Act and he was ordered to undergo rigorous imprisonment for a period of two years and to pay compensation of Rs.2,11,000/- to the respondent/complainant. The petitioner preferred appeal and along with the appeal, moved application for suspension of sentence, wherein the impugned order was passed.

3. Learned counsel for the petitioner has submitted that imposition of condition payment of interim compensation under Section 148 of the Act is not an absolute rule. In exceptional circumstances, such a condition can be waived. Reliance is placed on a judgment of Hon'ble Supreme Court titled **Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others** reported as **2023 (10) SCC 446** and also on a judgment passed by a Co-ordinate Bench of this Court in **CRM-M-28802-2024** titled **Ravjot Singh vs. Paramjit Singh**, decided on 31.05.2024. It is further submitted that the learned Appellate Court passed the order considering that the interim compensation needed to be awarded and judgment of conviction has already been passed and the Court failed to consider the plea raised by the petitioner regarding theft of the cheque prior to institution of the complaint.

4. I have heard the submissions of learned counsel for the petitioner and have also gone through the case file.

5. Hon'ble Supreme Court, in the case of **Jamboo Bhandari** (*supra*), has held 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.”

6. In the light of the above mentioned judgment, passed in **Jamboo Bhandari** (*supra*), the learned Appellate Court was required to consider whether the present case falls under exception or not. So, the impugned order is not sustainable in the eyes of law, since it is passed in violation of the provisions of the above mentioned authority i.e. **Jamboo Bhandari** (*supra*).

7. Notice of this petition is not being issued to the respondent because if notice is issued to the respondent, then it may prolong the matter

and would also cause financial burden on the respondent. So, service on the respondent in this matter is dispensed with.

8. In the light of above discussion, the impugned order dated 28.03.2024 (Annexure P-4), whereby the petitioner has been directed to deposit 20% of the compensation amount under Section 148-A of the Act, is hereby set aside. The learned Appellate Court is directed to pass the order afresh, after granting opportunity to the parties with regard to, whether the petitioner is able to make out a ground that his case falls under exceptional category which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount or whether the petitioner is liable to pay less amount of compensation.

9. Accordingly, the case is remanded to learned Appellate Court to proceed further in accordance with law.

10. The petitioner is directed to appear through his counsel before the learned Appellate Court on 15.07.2024.

11. Pending applications, if any, shall stand disposed of along with this judgment.

July 03, 2024

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(GURBIR SINGH)

JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.