2024:PHHC:101313

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39687-2023

Date of Decision : **07.08.2024**

ASHRUPPI .....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER .....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Shiv C. Bhola, Advocate,
for the petitioner.

Mr.Pardeep Bajaj, DAG, Punjab.

Mr. Y.P. Khanna, Advocate, for respondent no.2.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner seeks quashing of the impugned order dated 26.05.2023 (Annexure P-3), whereby, the learned Additional Sessions Judge concerned, while suspending his sentence, has directed him to deposit 10% of the cheque amount in favour of the complainant, within 60 days from date of said order.

2. The petitioner has been convicted by the learned trial Court concerned, vide judgement dated 28.04.2023, and vide order of conviction of even date, he was sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.5,000/-.

3. The verdict of conviction and order of sentence (*supra*), has caused grievance to the petitioner and has triggered him to institute a statutory appeal thereagainst, before the learned appellate court concerned, which is pending consideration. However, the learned

DHARAM VIR
2024.08.09 18:28
I attest to the accuracy and
integrity of this document

appellate court concerned has, through the impugned order (*supra*), directed him to deposit 10% of the cheque amount, in favour of the complainant, within 60 days from the date of impugned order (*supra*). Feeling aggrieved by the impugned order (*supra*), the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned order (*supra*), submits that the case of the petitioner falls in "exceptional category", inasmuch as, he does not have any means to make payment of even 10% of the cheque amount, as directed by the Courts concerned.

5. To buttress his submission, the learned counsel for the petitioner has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in ***"Jamboo Bhandari V/s M.P. State Industrial Development Corporation Ltd. & Ors.", 2023(3) Law Herald (SC) 2433.***

6. On a specific query being posed by this Court, vis-a-vis, *"whether the petitioner has, or, has not, since 2023 till date, made an application before the learned appellate court concerned, thereby bringing the aforesaid facts on record",* the learned counsel for the petitioner returned the answer in 'negative'.

7. In such circumstances, this Court, at this stage, refrains from making any interference in the matter, and, deems it fit and appropriate to relegate the petitioner to the learned appellate court concerned, by making an appropriate motion. In case, the petitioner falls within "exceptional category", as per the law laid down by the Hon'ble Supreme

DHARAM VIR
2024.08.09 18:28
I attest to the accuracy and
integrity of this document

Court in this regard, thereupon, the learned appellate court concerned shall make a decision on the application, if any, preferred by the petitioner, as per law.

8. **Disposed of** accordingly.

(KULDEEP TIWARI)
JUDGE

August 07, 2024
dharamvir

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No

DHARAM VIR
2024.08.09 18:28
I attest to the accuracy and
integrity of this document