

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-42085-2024
Decided on: 04.09.2024

Jaswinder Singh

... Petitioner(s)

Versus

HDFC Bank Limited

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Yogesh Kumar Aneja, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

1. The present petition under Section 482 Cr.P.C. has been filed for quashing of order dated 29.05.2024 (Annexure P-4) passed by the Court of Additional Session Judge, Fazilka, whereby the petitioner has been directed to deposit 20% of the compensation amount (Rs.24,70,000/-) awarded by learned trial Court within a period of 60 days as interim compensation in appeal bearing No.CRA-206-2024 titled as ‘Jaswinder Singh vs. HDFC Bank’ pending before learned Additional Sessions Judge, Fazilka filed in complaint No. 117-2 of 19.05.2022 under NACT-286 of 2022 decided on 01.05.2024.

2. Learned counsel for the petitioner submits that respondent had filed a criminal complaint under Section 138 of the Negotiable Instruments Act against the petitioner wherein on conclusion of trial, the petitioner was convicted and sentenced to simple imprisonment for one year and further to pay compensation of amount of an Rs. 24,70,000/- which is double of the cheque amount vide judgment and order dated 01.05.2024 by the Court of Additional Chief Judicial Magistrate Fazilka. Being aggrieved, petitioner

had preferred an appeal against the said judgment and order and the



Appellate Court vide order dated 29.05.2024 has admitted the appeal and also disposed of application seeking suspension of sentence with direction to the petitioner to deposit 20% of the amount of compensation awarded by the learned trial Court.

3. Learned counsel for the petitioner while assailing the impugned order (Annexure P-4) submits that the case of the petitioner falls in “exceptional category” inasmuch as, he does not have any means to make payment of 20% of the awarded compensation amount.

4. Learned counsel for the petitioner further contends that the learned lower Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation in a mechanical manner, without assigning any reasons and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon’ble Supreme Court in Criminal Appeal Nos.2741 of 2023 SLP(Crl.) Nos. 4927 of 2023 ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***, decided on 04.09.2023, wherein it was observed as follows:-

“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 petitioner 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 4 conclusion must be recorded.”

5. I have heard the counsel for the petitioner and gone through the impugned order and the case law referred by counsel for the petitioner and this Court of the view that the impugned order dated 29.05.2024 to the extent whereby petitioner is directed to deposit 20% of the compensation amount awarded by trial Court is not passed by the Appellate Court in accordance with the afore-stated settled position of law. While passing the said direction, the Appellate Court has not referred to the ratio laid down by Hon’ble Supreme Court in ***Jamboo Bhandari’s case (supra)*** and no reason is given by the said Court while issuing aforesaid directions.

6. Consequently, the impugned order dated 29.05.2024 is set aside to the extent of imposition of condition of depositing 20% of the compensation amount and the matter is remanded back to the Learned Appellate Court to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances, which warrants waiver of the requirement of deposit of 20% of the compensation awarded by the learned trial Court, in the light of judgment passed by Hon’ble Supreme Court in ***Jamboo Bhandari’s case (supra)*** and till then not to take any coercive action against the petitioner. The petitioner

is directed to appear before the Appellate Court on the next date fixed in the appeal before learned Appellate Court.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if they feel dis-satisfied with this order, they may move an application to recall the same.
8. The instant petition stands disposed of in above terms.

(KIRTI SINGH)
JUDGE

04.09.2024
Kapil

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>