

2024:PHHC:123713



130.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46504-2024

Date of decision: 18.09.2024

Sushil Kumar @ Susheel Kumar

.... Petitioner

Versus

Jasbir Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Mehak Ghangas, Advocate for
Mr. Ajay Ghangas, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Prayer in this petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for setting aside the order dated 11.03.2024 passed by learned Additional Sessions Judge, Panipat, in Criminal Appeal bearing No.105 of 2024 titled as *Sushil Kumar Versus Jasbir Singh*, whereby the petitioner has been directed to deposit 20% of the compensation amount as a condition to suspension of sentence.

2. Vide judgment dated 07.02.2024, learned Sub-Divisional Judicial Magistrate, Samalkha, in a complaint case bearing No.NACT/228/2018, convicted the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short, NI Act) and vide separate order dated 12.02.2024, he was sentenced rigorous imprisonment for a period of 6 months and to pay double the cheque amount of Rs.5 lacs i.e.

Rs.10 lacs. Aggrieved against the said order, he filed appeal but in appeal, the impugned order has been passed.

3. Learned counsel appearing on behalf of the petitioner has argued that the appellate Court has given no reason for imposing 20% of the compensation amount as contemplated under Section 148 of the NI Act. Reliance is placed on judgment in ***Jamboo Bhandari Versus M.P. State Industrial Development Corporation Limited and others, 2023(3) MWN (Cr.) DCC 104 (SC)***.

4. I have heard the submissions of learned counsel for the petitioner.

5. In case ***Jamboo Bhandari (supra)***, the court is required to give reasons for imposing penalty of 20%. In case ***Rakesh Ranjan Shrivastava Versus The State of Jharkhand and another, Criminal Appeal No.741 of 2024, decided on 15.03.2024***, it has been held that 20% of the amount is the ceiling as prescribed under the provisions and the Court is required to give reasons for awarding maximum compensation.

5.1 In the case in hand, the appellate Court has not given any reason for awarding maximum compensation to the extent of 20%. Since the impugned order is non-speaking, so the same does not sustain in the eyes of law.

5.2 On asking, learned counsel for the petitioner submits that the petitioner is ready to pay 10% of the amount of compensation and some time be granted.

6. Keeping in view the above, if notice of this petition is given to the respondent-complainant, it may burden him, so service upon the respondent-complainant is hereby dispensed with.

7. In the light of above observation, the impugned order dated 11.03.2024 passed in Criminal Appeal bearing No.105 of 2024 is modified to the extent that the petitioner shall pay 10% of the amount of compensation within a period of 30 days from today.

8. Present petition stands disposed of accordingly.

9. In case, respondent-complainant is not satisfied with this order, he can move an application within 30 days before the next date fixed before the appellate Court for challenging this order.

(GURBIR SINGH)
JUDGE

September 18, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No