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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : November 05, 2024

JASWINDER SINGH

-PETITIONER

V/S

JASVIR SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ajay Singh, Advocate for
Mr. Gursimran Singh Bhatia, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner assails the order dated 02.08.2024 (Annexure P-2), whereby, although the learned Additional Sessions Judge concerned has suspended his sentence, however, the said concession has been extended subject to him depositing 20% of the compensation amount in the trial Court concerned, within a period of 60 days therefrom.

2. As a matter of fact, the learned trial Court concerned has, through drawing the verdict of conviction and the consequent thereto order of sentence dated 25.10.2023, upon case bearing CIS No. NACT/39/2017, convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'N.I. Act'), and, sentenced him to undergo R.I. for two years and to pay compensation equivalent to cheque amount i.e. ₹ 5,00,000/-. Moreover, on failure of payment of compensation to complainant, the petitioner shall

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further undergo R.I. for 30 days.

3. The verdict of conviction and order of sentence (supra) caused pain to the petitioner and triggered him to institute thereagainst a statutory appeal before the learned appellate court concerned, which is pending consideration. However, the learned appellate court concerned has, through the impugned order dated 02.08.2024 (Annexure P-2), although suspended the sentence imposed upon the petitioner, however, the said concession has been extended subject to him depositing 20% of the compensation amount in the trial Court concerned, within a period of 60 days therefrom. Feeling aggrieved by this impugned order, the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned order dated 02.08.2024 (Annexure P-2), submits that the case of the petitioner falls in “exceptional category”, inasmuch as, he does not have any means to make payment of even 20% of the awarded compensation amount.

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, made an application before the learned appellate court concerned till date, thereby bringing the aforesaid facts on record”*, the learned counsel for the petitioner returned an answer in negative.



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7. In such circumstances, this Court, at this stage, refrains from making any interference in the matter and deems it 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 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.

November 05, 2024
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(KULDEEP TIWARI)
JUDGE

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