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

CRM-M-65310-2023

Date of decision: 08.01.2024

Naginder Singh

...Petitioner

Versus

M/s Moti Ram Mangat Rai Commission Agent

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Manmeet Singh, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/accused seeking quashing of order dated 16.11.2023 Annexure P-1 passed by the Court of Additional Sessions Judge, Sirsa in Criminal Appeal No. CRA-430-2023 titled as Nagender Singh Vs. M/s Moti Ram Mangat Rai whereby the substantive sentence of the petitioner was suspended subject to condition that he shall deposit 20% of the compensation amount awarded by the learned trial Court within 60 days as per provision contained in Section 148 of Negotiable Instruments Act, failing which the order of suspension of sentence shall be deemed to be vacated in view of the law laid down by the Hon'ble Supreme Court in *Surender Singh Deswal @ Col. S.S. Deswal and others Vs. Virinder Gandhi* and another 2020 (1) SCC (CrI) 506.

2. The brief facts of the case are that respondent/complainant filed criminal complaint under Section 138 NI Act against the petitioner wherein on completion of trial the petitioner was convicted and sentence to imprisonment and to pay a fine under Section 138 NI Act. Being aggrieved the petitioner filed an appeal against the said judgment and order passed by the trial Court and he also sought suspension of sentence during the pendency of the appeal. The appellate Court entertained the appeal and passed impugned order Annexure P-1.

3. Being not satisfied, the petitioner has filed the present revision petition.

4. I have heard the counsel for the petitioner.

5. The counsel for the petitioner submits that the provision of Section 148 NI Act is not mandatory and the appellate Court passed the impugned order without an application of mind and that the impugned order is not sustainable in eye of law.

6. I have considered the submissions made by the counsel for the petitioner.

7. The Hon'ble Supreme Court in ***Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. And others 2023 (10) SCC 446*** has observed that deposit of minimum 20% compensation/fine amount was not an absolute blanket rule under Section 148 of Negotiable Instruments Act while considering the request of the accused for suspension of sentence. The Hon'ble Supreme Court further observed that it was duty of the appellate Court to give reason for imposing the condition to deposit 20% of compensation for suspending the sentence.

8. From the perusal of the impugned order it appears that the same has been passed by the appellate Court in a mechanical manner without assigning any reason directing the petitioner to deposit 20% of the compensation amount awarded by the trial Court within 60 days. Thus, the said order is not passed by the appellate Court as per the ratio laid down by the Hon'ble Supreme Court in **Jamboo Bhandari's case** (supra).

9. For the forgoing reasons, the present petition is allowed and the direction to deposit 20% of compensation amount is set aside. The appellate Court is directed to reconsider the application filed by the petitioner seeking suspension of sentence, after giving an opportunity of hearing to petitioner and respondent, in the light of the law laid down by the Hon'ble Supreme Court in Jamboo Bhandari's case (supra). Till fresh orders are passed by the appellate Court as directed above, no coercive steps shall be taken against the petitioner. The petitioner is directed to appear before the appellate Court on the date already fixed in the appeal.

10. The petition stands disposed of in aforesaid terms, without expressing any opinion on the merits of the case.

11. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feel dis-satisfied with this order, he may move an application to recall the same.

08.01.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No