



\$~96 & 97

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 292/2022 & CRL.M.A. 1152/2022

STELCO STRIPS LIMITED AND ANR.Petitioners

Through: Mr. Deepak Dhingra and Ms. Sneh
Somani, Advocates.

versus

THE SARASWAT CO-OPERATIVE BANK LTD. (SCHEDULED
BANK) ,Respondent

Through: Mr. Ashish Wad, Mr. Ajeyo Sharma,
Ms. Akriti Arya, Advocates.

+ CRL.M.C. 331/2022 & CRL.M.A. 1377/2022

STELCO STRIPS LIMITED AND ANR.Petitioners

Through: Mr. Deepak Dhingra and Ms. Sneh
Somani, Advocates.

versus

THE SARASWAT CO-OPERATIVE BANK LTD.(SCHEDULED
BANK)Respondent

Through: Mr. Ashish Wad, Mr. Ajeyo Sharma,
Ms. Akriti Arya, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

07.08.2024

%

1. Petitioners have approached this Court challenging the Order dated 16.11.2021, passed by the learned Additional Sessions Judge – 05, South East District, Saket Courts, allowing the application filed by the Respondent herein under Section 148 of the NI Act and directing the Petitioner herein to deposit 20% of the compensation amount before the learned Trial Court by



way of an FDR within 60 days from the date of the said Order.

2. A perusal of the said Order shows that on that particular date a request was made by the learned proxy Counsel appearing for the Petitioner before the Trial Court on the ground that the arguing Counsel was not well that day. Instead of granting adjournment, learned Trial Court proceeded further and directed the Petitioner to deposit 20% of the compensation amount before the learned Trial Court.

3. Today, learned Counsel appearing for the Petitioner places reliance on the Judgment of the Apex Court in Jamboo Bhandari v. M.P. SIDC Ltd., (2023) 10 SCC 446. Though the said Judgment was not available at the time of passing of the Impugned Order, relevant portions of the said judgment reads as under:

*“6. What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the 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 the appellate court considers the prayer under Section 389CrPC of an accused who has been convicted for offence under Section 138 NI 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 conclusion must be recorded.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389CrPC for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the court has to consider whether the case falls in exception or not.

10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception.”
(emphasis supplied)

4. The Trial Court has passed the Impugned Order in light of the Judgment passed by the Apex Court in Surinder Singh Deswal Alias Colonel S. S. Deswal & Ors. vs. Virender Gandhi, (2019) 11 SCC 341 which has been explained in Jamboo Bhandari (supra).

5. In view of the fact that the learned Counsel for the Petitioner was not available on the day when the impugned Order was passed, this Court is inclined to set aside the impugned Order and remand the matter back to the Appellate Court to decide the application filed by the Respondent under



Section 148 NI Act afresh.

6. It is made clear that this Court has not made any observations on the merits of the case and it is open for both the parties to advance contentions available to them in accordance with law.

7. In view of the fact that the proceedings before the Appellate Court has been stayed by this Court, this Court is inclined to make a request to the Trial Court to decide the application of the Respondent as expeditiously as possible, preferably within six months from today.

8. With these directions, the Petitions are disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

AUGUST 7, 2024

Rahul