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

+ **CRL.M.C. 2796/2024**

**M/S TANEJA PAINTS AND HARDWARE
STORE AND ANR.**

..... Petitioners

Through: Mr Mohd. Yasin, Mr Shariq Nisar
and Mr Yashovardhan Oza,
Advocates.

versus

M/S AKZO NOBEL INDIA LIMITED

..... Respondent

Through: Mr R. K. Ruhil, Mr Anil Kumar and
Mr Rahul Kasana, Advocates.

**CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN**

ORDER
08.04.2024

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CRL.M.A. 10618/2024

1. Allowed, subject to all just exceptions.

CRL.M.C. 2796/2024

2. The present petition has been filed seeking following relief:-

“a. Pass a direction and allow the petitioner to deposit the 20% of the awarded amount in view of order dated 06.12.2023 passed by Ms. Aparna Swami, Ld. ASJ-07, Patiala House Court, New Delhi in CA No. 345/2023 during the pending of the criminal appeal.

b. Stay the non-bailable warrants issued by the Ld. Trial Court against the petitioner no.2.”

3. The petitioner was convicted for the offence under Section 138 of the NI Act *vide* judgment dated 26.10.2023 passed by the learned Metropolitan



Magistrate-05, (NI Act).

4. *Vide* order dated 31.10.2023, the petitioner was directed to pay total compensation of Rs.55 lakhs to the complainant under Section 357(3) CrPC within a period of one month from the said date.
5. The judgment of conviction, as well as, order on sentence was challenged by the present petitioner by preferring an appeal before the court of learned Additional Sessions Judge-07, Patiala House Courts, New Delhi. The learned Appellate Court vide order dated 06.12.2023 suspended the sentence awarded to the petitioner till the conclusion of the appeal subject to depositing 20% of the fine or compensation awarded by the learned Trial Court, by way of an FDR within 90 days from the date of the order.
6. Learned counsel for the petitioner submits that the petitioner could not deposit the amount within the time stipulated by the learned Appellate Court in its order dated 06.12.2023 as the said amount was to be deposited in the court of the learned Trial Court and there was no Presiding Officer in the said court at the relevant time, therefore, the petitioner was not having clarity as to in whose name the FDR is to be deposited.
7. He further submits that *vide* order dated 18.03.2024, the learned appellate court has revoked the order of suspension of sentence on the ground that the petitioner has failed to deposit 20% of the compensation amount in terms of the order dated 06.12.2023.
8. Learned counsel submits that the appellate court does not have the power to extend the period beyond 90 days in view of the outer limit for such extension specified in sub-section (2) of Section 148 of the NI Act.
9. In view of the above, issue notice. Learned counsel, who appears on advance notice, accepts notice on behalf of the respondent. He submits that



the respondent no.2 has no objection in case the time period to deposit 20% of the compensation amount is extended and the same is made time bound.

10. Accordingly, the order dated 18.03.2024 passed by the learned appellate court revoking the suspension of sentence is set aside and to secure the ends of justice the time period granted to the petitioner to deposit 20% of the compensation amount in terms of the order dated 06.12.2023 passed by the learned ASJ-07, Patiala House Courts, New Delhi, is further extended for a period of one week from today.

11. It is made clear that in case the petitioner fails to deposit 20% of the compensation amount in the time period as extended above, the order dated 18.03.2024 passed by the learned ASJ-07, Patiala House Courts, New Delhi shall stand revived.

12. With the aforesaid directions, the petition stands disposed of.

13. Order *dasti* under signatures of the Court Master.

APRIL 8, 2024
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VIKAS MAHAJAN, J