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

CRM-M-7483-2025

Date of Decision: 10.02.2025

Dawinder Singh @ Davinder Singh

..... Petitioner

Versus

M/s Nivedeep Tyers @ M/s Navdeep Tyers

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gaurav Vir Singh Behl, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition filed under Section 528 of BNSS, 2023, is for quashing of the impugned order dated 10.09.2024 (Annexure P-6), passed by learned Additional Sessions Judge, Sangrur to the extent vide which the petitioner was directed to deposit 20% amount of the total amount of compensation awarded by learned Appellate Court in Appeal bearing No.CRA-365 of 2024 titled as Davinder Singh vs. M/s Navdeep Tyers, which was filed against the judgment of conviction dated 28.08.2024 passed by learned JMIC, Malerkotla, in complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act').

2. Learned counsel for the petitioner has stated that petitioner was prosecuted in a complaint under Section 138 of the Act and he was convicted by learned Sub Divisional Judicial Magistrate, Malerkotla under Section 138 of the Negotiable Instrument Act, 1881, vide judgment dated 28.08.2024 and sentenced to undergo rigorous imprisonment for one year and was ordered to pay compensation to the tune of double the cheque amount to the complainant. It is further submitted that against the order dated 28.08.2024, the petitioner filed an appeal before the Court of learned

Additional Sessions Judge at Sangrur and learned Appellate Court vide its



impugned order dated 10.09.2024 (Annexure P-6) suspended the sentence of petitioner subject to deposit of 20% of the compensation amount with the aid of Section 148 of the NI Act. However, due to financial constraints, the petitioner failed to comply with the order dated 10.09.2024. He submits that even otherwise, the impugned order dated 10.09.2024 passed by the learned Appellate Court is in violation of the law settled by Hon'ble Supreme Court in **Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others**, 2024(1) SCC (Cri) 90 wherein it has been held that when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the 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, which is missing in the present case. It is submitted that learned trial Court has not appreciated the case and circumstances of the petitioner as per mandate of Hon'ble Supreme Court in **Jamboo Bhandari's** case (supra).

3. After hearing learned counsel for the petitioner and perusing the record, it is apparent that sentence of the petitioner was suspended by learned Appellate Court subject to deposit of 20% of the compensation amount awarded by learned trial Court. However, the petitioner did not comply with the same.

4. In view of the aforesaid facts and the judicial precedent settled



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by Hon'ble Apex Court in **Jamboo Bhandari's** case (supra), without commenting anything on the merits of the case, the present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an appropriate application before it, which would be decided, by taking into consideration the law laid down by the Hon'ble Apex Court in **Jamboo Bhandari's** case (supra) in this regard within one month from the date of its filing. The direction given in the order dated 10.09.2024 by learned Appellate Court to the extent of depositing 20% of compensation, is set aside and the petitioner will continue to remain on bail as per order dated 10.09.2024 of learned Appellate Court till the above-said application is disposed of by it.

(RAJESH BHARDWAJ)
JUDGE

10.02.2025

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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No