

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

**CRM-M No.11012 of 2025
Date of decision: 01.04.2025**

Kewal Krishan Kumar

.....Petitioner

Versus

M/s. Mangal Sain Joti Parshad

.....Respondent

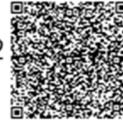
CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Ms. Vibhuti Narania, Advocate
for the petitioner.

H.S. GREWAL J.

The instant petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking quashing of order dated 11.03.2024 and 29.10.2024 (Annexure P4 and P6, respectively), passed by the Court of learned Additional Sessions Judge, Kurukshetra in CRA No.114 of 2024, titled as 'Kewal Krishan Kumar Vs. M/s. Mangal Sain Joti Parshad, etc.' arising out of order passed in criminal complaint bearing NACT No.1040/2016 dated 25.10.2016, while suspending the sentence of the petitioner, the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the trial Court.

2. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as learned appellate Court, while giving such direction, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be imposed in exceptional circumstances. Hence, it is



urged that the impugned order passed by the appellate Court is liable to be set aside.

3. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction dated 12.02.2024, passed in a complaint filed under Section 138 of N.I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned section and apart from awarding sentence to undergo rigorous imprisonment for a period of one year, had also directed him to pay compensation to the respondent to the tune of amount of impugned cheque within a period of 03 months from the date of passing of the said order and further in default of payment of compensation within the said period, to further undergo simple imprisonment for a period of 03 months. The petitioner challenged the order passed by the trial Court by filing aforesaid appeal before the learned appellate Court and the appellate Court, vide impugned order dated 11.03.2024, suspended the sentence of petitioner, subject to his depositing 20% of the compensation amount with the trial Court within a period of 60 days. Thereafter, the convict-petitioner moved an application before the Appellate Court for waiving of payment of 20% of the compensation amount which was dismissed vide order dated 29.10.2024 passed by the learned Additional Sessions Judge concerned.

4. In **Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others : (2024) 1 SCC (Cri) 90**, it was observed by Hon'ble Supreme Court that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the appellant. This proposition of law is shown to have been followed by the co-ordinate Bench of this Court in



Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024, decided on 24.01.2024.

In the instant case, while imposing condition of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned orders dated 11.03.2024 and 29.10.2024 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed. Accordingly, the same are set aside to that extent.

5. The matter is remanded to learned appellate Court for deciding the same afresh after re-examining the case by granting an opportunity to the petitioner to make submissions regarding exceptional circumstances warranting waiver of requirement of depositing 20% of the compensation amount in pursuance of judgment passed by Hon’ble Supreme Court in **Jamboo Bhandari’s** case (supra).

6. The petition stands allowed.

7. The petitioner is directed to appear before the appellate Court on 23.04.2025.

01.04.2025

Sonia Puri

**(H.S. GREWAL)
JUDGE**

<i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>