

2025:PHHC:043919



112.

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

CRR-762-2025 (O&M)

Date of decision: 28.03.2025

Sandeep Kumar

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kamal Narula, Advocate, for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-11766-2025

For the reasons mentioned in the applications, delay of 23 days in filing the present criminal revision petition, is condoned.

Application stands allowed.

CRR-762-2025

1. The petitioner in the instant petition is challenging order dated 26.11.2024 passed by learned Additional Sessions Judge, Fazilka, in case No. Criminal Appeal No.361 of 2024 in Criminal Complaint dated 16.07.2019, under Section 138 of Negotiable Instruments Act, whereby he was directed to deposit 20% of the compensation amount within 60 days. The application filed before the learned trial Court against the said order for extension of time was also dismissed vide order dated 17.02.2025.

2. Learned counsel for the petitioner submits that the impugned order which has been passed by the learned Additional Sessions Judge reflected an arbitrary exercise of judicial discretion. It has been vehemently submitted that the learned appellate Court erred in directing the petitioner to deposit 20% of the compensation amount, while suspending his sentence as no arbitrary constraints could be imposed on the rights of the personal liberty of a person.

3. It has been submitted that the condition imposed by the learned appellate Court was onerous, more so since the petitioner did not have the financial means to deposit 20% of the compensation amount. A prayer has, therefore, been made to quash the said condition.

4. I have heard learned counsel and perused the relevant material on record.

5. This Court finds no merit in the submissions made by learned counsel for the petitioner. The Hon'ble Supreme Court in '***Surinder Singh Deswal @ Col. S.S. Deswal & others Versus Virender Gandhi***' 2019 (3) ***RCR (Criminal)*** 186, while dealing with similar controversy, observed as under:

“9. Now so far as the submission on behalf of the appellants that even considering the language used in section 148 of the N.I. Act as amended, the appellate Court "may" order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial Court and the word used is not "shall" and therefore the discretion is vested with the first appellate Court to direct the appellant-accused to deposit such sum and the appellate court has construed it as mandatory, which according to the learned Senior Advocate for the appellants would be contrary to the

provisions of section 148 of the N.I. Act as amended is concerned, considering the amended section 148 of the N.I. Act as a whole to be read with the Statement of Objects and Reasons of the amending section 148 of the N.I. Act, though it is true that in amended section 148 of the N.I. Act, the word used is "may", it is generally to be construed as a "rule" or "shall" and not to direct to deposit by the appellate court is an exception for which special reasons are to be assigned. Therefore amended section 148 of the N.I. Act confers power upon the Appellate Court to pass an order pending appeal to direct the Appellant-Accused to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on the application filed by the Appellant-Accused under section 389 of the Cr.P.C., 1973 to suspend the sentence. The aforesaid is required to be construed considering the fact that as per the amended section 148 of the N.I. Act, a minimum of 20% of the fine or compensation awarded by the trial court is directed to be deposited and that such amount is to be deposited within a period of 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the appellate court for sufficient cause shown by the appellant. Therefore, if amended section 148 of the N.I. Act is purposely interpreted in such a manner it would serve the Objects and Reasons of not only amendment in section 148 of the N.I. Act, but also section 138 of the N.I. Act. Negotiable Instruments Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of the dishonoured of cheques. So as to see that due to delay tactics by the unscrupulous drawers of the dishonoured cheques due to easy filing of the appeals and obtaining stay in the proceedings, an injustice was caused to the payee of a dishonoured cheque who has to spend considerable time and resources in the court proceedings to realise the value of the cheque and having observed that such delay has compromised the sanctity of the cheque transactions, the Parliament has thought it fit to amend section 148 of the N.I. Act. Therefore, such a purposive interpretation would be in furtherance of the Objects and Reasons of the amendment in section 148 of the N.I. Act and also section 138 of the N.I. Act.”

6. In view of the above observations of the Hon’ble Supreme Court, there can be no manner of doubt that the impugned order does not suffer from any error and has been passed as per provisions of section 148

of the Negotiable Instruments Act, 1881. This Court is also not inclined to stay the disbursement of the interim compensation during the pendency of the appeal as it would defeat the very purpose behind enactment of Section 148 of the said Act.

7. As a sequel to the above, there being no merit in the instant petition, the same stands dismissed.

8. At this stage, learned counsel for the petitioner prays for extension of time to deposit 20% of the compensation amount.

9. The time granted to the petitioner for deposit of 20% of the compensation amount is extended by 09.04.2025.

(MANJARI NEHRU KAUL)
JUDGE

March 28, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No