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

**CRM-M No.19281 of 2025
Date of Decision : 07.04.2025**

Wazir Chand

.....Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Hemant Hans, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of impugned order dated 19.12.2024 passed by the learned Additional District Judge, Rohtak (Annexure P-5) whereby the learned Appellate Court in view of Section 148 of Negotiable Instruments Act has directed the petitioner to deposit 20% of the awarded compensation by the learned trial Court in complaint CIS No.NACT/476/2018 titled as Ashok Kumar Sharma vs. Wazir Chand (Annexure P-1) decided vide judgment dated 20.11.2024 (Annexure P-2) without considering the facts, pleading of the case, evaluating merits of the case, recording any reasons and the same being against the settled law. Further prayer has been made for staying the operation of impugned order dated 19.11.2024 (Annexure P-5) passed by the learned Additional Sessions Judge, Rohtak to the extent of deposit 20% of the awarded compensation by the learned trial Court in aforesaid complaint during the pendency of the present petition.



2. Learned counsel for the petitioner has submitted that the petitioner was prosecuted in a complaint under Section 138 of the Act. He has further submitted that the petitioner was convicted by the learned Judicial Magistrate Ist Class, Rohtak vide judgment dated 20.11.2024 and sentenced to undergo simple imprisonment for 16 months and was ordered to pay amount of Rs.24,00,000/-, i.e. double the cheque amount as compensation in terms of Section 357(3) of Cr.P.C. for commission of offence punishable under Section 138 of Negotiable Instruments Act vide order dated 25.11.2024. It is further submitted that the petitioner assailed the order dated 20/25.11.2024 by filing an appeal before the Court of learned Additional Sessions Judge, Rohtak, which is admitted for hearing. Though the application for suspension of sentence of the petitioner was allowed, however, the learned Appellate Court vide impugned order dated 19.12.2024, ordered the petitioner to pay 20% of the compensation amount. However, due to financial constraints, the petitioner failed to comply with the order dated 19.12.2024. He has further submitted that the petitioner is unable to collect the requisite amount and not in a situation to deposit such a huge amount and thus the direction issued to deposit 20% of the compensation amount is unsustainable in the eyes of law as per the provisions of Section 148 of NI Act. Thus, the learned Appellate Court has not afforded any opportunity to the petitioner to put forward his case and as such the Appellate Court has failed to follow the mandate of Hon'ble Supreme Court given in *Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others*, 2024(1) SCC (Cri) 90. He prays that the petitioner be granted one opportunity to present his case before the Appellate Court and then pass fresh order after considering his

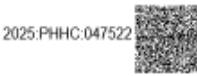


contentions as well as the mandate of Hon'ble Supreme Court. He has further stated that in the *Jamboo Bhandari case (supra)*, it has been held that when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the NI 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.

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the learned Appellate Court suspended the sentence of the petitioner and ordered to deposit 20% of the compensation amount vide order dated 19.12.2024. However, due to financial constraints, the petitioner failed to comply with the order dated 19.12.2024. The order has been passed without affording any opportunity to the petitioner to explain his position and as such, the same is against the mandate of Hon'ble Supreme Court in *Jamboo Bhandari's case (supra)*.

5. In view of the aforesaid facts, and the judicial precedent settled 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 passing a fresh order, by taking into consideration the law laid down by the Hon'ble Apex Court in *Jamboo*



Bhandari’s case (supra) in this regard within two weeks from the date of filing of the application. The directions given in the order dated 19.12.2024 by learned Appellate Court to the extent of depositing 20% of compensation, is set aside however, the petitioner shall continue to remain on bail as per order dated 19.12.2024 of learned Appellate Court till the above said application is disposed of by it.

07.04.2025
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(RAJESH BHARDWAJ)
JUDGE

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