

2025:PHHC:055980



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

116

**CRR-1114-2025 (O&M)
Date of decision: 30.04.2025**

NITIN ISHWAR BHAI GAJJAR

.... Petitioner

Versus

M/S CONQUER INVESTMENT AND FINANCE PVT. LTD.

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Vishal Handa, Advocate for the applicant/petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner challenging the judgment of conviction and order on quantum of sentence, both dated 04.10.2024, passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case titled as *M/s Conquer Investment & Finance Private Limited vs. Nitin and another*, bearing NACT No.10776 of 2017, wherein the petitioner was convicted and sentenced for commission of offence punishable under Section 138 of Negotiable Instrument Act, 1881 (*for short 'N. I. Act'*) for two years and has also laid challenged to the order dated 05.11.2024 passed by learned Additional Sessions Judge, Chandigarh to the extent whereby, while suspending the sentence of the petitioner, as awarded to him in the aforesaid case, the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the learned trial Court within a period of 60 days from the date of passing the order.

2025:PHHC:055980



2. After arguing for some time, learned counsel for the petitioner has restricted his arguments only to the extent of modifying the condition as imposed by the learned appellate Court in the order dated 05.11.2024.

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 deposit of 20% of the compensation amount was not an 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 to that extent. To fortify his argument, he has placed reliance upon the judgments passed by the co-ordinate Benches of this Court in *Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024*, decided on 24.01.2024, *Sarif Mohammad @ Sareef Mohammad vs. Swaran Singh and another, CRM-M-20840-2024*, decided on 26.04.2024, *Vikram Singh and another vs. Nasar and another, CRM-M-6508-2024*, decided on 08.02.2024 and *Sahil Puri vs. Sonu Kumar and another, CRM-M-2503-2024*, decided on 18.01.2024.

3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction order on quantum of sentence dated 04.10.2024, passed in the aforesaid complaint had held the petitioner guilty for commission of offence punishable under Section 138 of the N. I. Act and apart from awarding sentence to undergo rigorous imprisonment for a period two years, had also directed him to pay compensation to the tune amount i.e. Rs.1,62,30,000/-. The

2025:PHHC:055980



petitioner challenged the order passed by the learned trial Court by filing aforesaid appeal before the learned appellate Court and the appellate Court, vide order dated 05.11.2024 had directed the petitioner to deposit 20% of the compensation amount.

5. 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 Benches of this Court in *Abdul Rashid's* case (supra) as well as afore-cited other similar cases. 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 order dated 05.11.2024 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 is set aside to that extent. The matter is remanded to

2025:PHHC:055980



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). The petition stands disposed of.

6. The petitioner shall be at liberty to file a fresh revision petition after decision of the appeal by the learned appellate Court, if so required.

30.04.2025
Deepak Patwal

(MANISHA BATRA)
JUDGE

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