

**CRR-1332-2019(O&M)****1****202****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1332-2019(O&M)****Date of Decision: 03.03.2025****Manish Verma****... Petitioner****versus****Satish Chand Singla****... Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. N.K. Malhotra, Advocate
for the petitioner.

Ms. Parul, Advocate
for the respondent.

*********HARPREET SINGH BRAR, J.(Oral)**

1. The present petition has been filed against the order dated 23.04.2019 passed by learned Additional Sessions Judge, Gurugram vide which the petitioner has been directed to deposit 20% of compensation awarded under Section 148 the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act'), in the case stemming from complaint no.14117/2016 dated 15.11.2016 filed under Sections 138 and 142 of NI Act.

2. Briefly, the facts, as alleged, are that the petitioner gave a cheque bearing no. 000602 dated 26.08.2016 for an amount of Rs. 19,00,000/- in order to repay the debt owed by him to the respondent. However, the same was dishonoured on presentation for encashment vide memo dated 07.09.2016, with the remarks- 'funds insufficient.' Consequently, the petitioner was convicted and sentenced vide judgment and order dated 25.03.2019/28.03.2019. The petitioner was ordered to undergo simple imprisonment of one year and pay compensation of Rs.25,00,000/-. Aggrieved by the same, the petitioner



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preferred an appeal before the learned Additional Sessions Judge, Gurugram, along with an application for suspension of sentence wherein he was ordered to deposit 20% of the compensation amount vide impugned order dated 23.04.2019.

3. Learned counsel for the petitioner inter alia contends that the learned Court below has fallen into grave error by allowing the application of the respondent in view of the amendment made to the NI Act. Vide notification dated 16.08.2018, the Ministry of Law and Justice effected the said amendment from 01.09.2018 whereas the complaint(supra) was filed on 15.11.2016. As such, the amended provision of Section 148 NI Act cannot be made retrospectively applicable to the present matter. He further relies upon the ratio of law laid down by the Hon'ble Supreme Court in ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others (2024) 1 SCC(Cri) 90*** and submits that the provision of Section 148 of the NI Act are not mandatory in nature. The Hon'ble Supreme Court, in a catena of judgments, has observed that the deposit of a minimum 20% of the compensation is not an absolute requirement for suspension of sentence.

4. Learned counsel for respondent vehemently opposes the prayer of learned counsel for the petitioner.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner has been directed to deposit 20% of compensation amount awarded to the respondent. The amendment was carried out and Section 148 was added to the NI Act that enables the concerned Court to impose condition of payment during the



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pendency of the appeal, while granting suspension of sentence. However, the Hon'ble Supreme Court in *G.J. Raja vs. Tejraj Surana (2020) 3 SCC(Cri) 725* has categorically held that the application of Section 143-A NI Act is prospective while that of Section 148 NI Act is retrospective.

6. Recently, a two Judge bench of the Hon'ble Supreme Court in *Jamboo Bhandari (supra)*, speaking through Justice Abhay S. Oka, has held as follows:

*“6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. **However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.**”*

7. *Therefore, 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 N.I. 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 4 conclusion must be recorded.”* (emphasis added)

7. In view of the settled law, the lower Appellate Court was required to consider whether the present case falls in the exception or not. Therefore, the order dated 23.04.2019 whereby the condition of depositing 20% of the compensation amount was imposed for granting suspension of sentence is hereby set aside. The learned Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner to make submissions regarding



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the exceptional circumstances which warrants waiver of the requirement of deposit of 20% of the compensation amount.

8. The matter is remanded back to the learned lower Appellate Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in *Jamboo Bhandari (supra)*.

9. The petition is disposed of accordingly.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

03.03.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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