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

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CRM-M-25633-2025

Date of decision : 22.05.2025

Vinay Bhushan Jhamb and another
Versus

... Petitioner

Ashwani Kumar Bhateja and another

.. Respondents

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

Present:- Ms. Seema Arora, Advocate for the petitioner.

H.S. Grewal, J.(Oral)

1. The instant petition has been filed under Section 528 of BNSS seeking quashing of order dated 16.01.2025 (Annexure P-3), passed by the Court of learned Additional Sessions Judge, Fazilka in CRA-23-2025 in Complaint NACT/354/2020 dated 03.07.2020, whereby, while suspending the sentence of the petitioners, as awarded to them in complaint filed under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act'), the learned appellate Court had directed them to deposit 20% of the compensation amount as awarded by the trial Court within 60 days.

2. It is argued by learned counsel for the petitioners 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 is 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.



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3. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction and quantum of sentence dated 11.12.2024 (Annexure P-1), passed in a complaint filed under Section 138 of N.1. Act, held the petitioners guilty for commission of offence punishable under the aforementioned section and apart from awarding sentence to undergo rigorous imprisonment for a period of 02 years, had directed him to pay compensation to the extent of double the cheque amount to the complainant. The petitioner challenged the order passed by the trial Court by way of filing appeal before the learned appellate Court and the appellate Court, vide impugned order dated 16.01.2025 (Annexure P-3), suspended the sentence of petitioners, subject to their depositing 20% of the compensation amount with the trial Court.

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(s). 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 petitioners 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



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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 16.01.2025 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.

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 petitioners 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 petitioners are directed to appear before the appellate Court on 29.05.2025.

(H.S.GREWAL)
JUDGE

22.05.2025

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