



234 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-29125-2024 (O&M)
Date of Decision: 15.02.2025

KARAM SINGH

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Impinder Singh Dhaliwal, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Mr. Gurinder Singh Sandhu, Advocate
for respondent No. 2.

HARPREET SINGH BRAR J. (Oral)

1. The present petition under Section 482 of Cr.P.C. for setting aside the order dated 30.03.2024 (Annexure P-3) passed by learned Additional Sessions Judge, Ferozepur in appeal bearing CRA No. 100 of 2024 filed by the petitioner against judgment dated 04.03.2024 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Ferozepur in complaint No. NACT/571/2021 titled as ***Gurmahil Singh Vs. Karam Singh*** wherein petitioner has been directed to deposit 20% i.e. Rs. 59,000/- of compensation awarded by learned trial Court vide judgment and order of sentence within a period of 60 days.

2. Brief facts of the case are that a complaint was filed by the respondent No. 2 against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') on the ground of dishonouring of cheque bearing No.000051 dated 10.02.2021 amounting to Rs.2,50,000/- issued in favour of the complainant/respondent No. 2 by the petitioner in discharge of his liability. Vide judgment and order of sentence dated

04.03.2024, petitioner was convicted and sentenced to undergo simple imprisonment for a period of nine months and was further directed to pay compensation to the tune of cheque amount i.e. Rs. 2,50,000/- along with interest @ 9% per annum from the date of issuance of cheque till the day of passing of judgment. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Ferozepur. The learned Appellate Court vide order dated 30.03.2024, suspended the sentence of petitioner subject to depositing 20% of the compensation amount within two months from the date of order.

3. Learned counsel for the petitioner *inter alia* contends that the learned lower Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in **Criminal Appeal Nos. 2741 of 2023 (@ SLP(Crl.) Nos. 4927 of 2023 *Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***, decided on **04.09.2023**. Speaking through Justice Abhay S. Oka, it has been 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.”

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in **Jamboo Bhandari (supra)**, the lower Appellate Court was required to consider whether the present case falls in the exception or not. The impugned order 30.03.2024 (Annexure P-3) whereby, the condition of depositing 20% of the compensation amount awarded has been imposed for granting suspension of sentence, is hereby set aside. The learned lower Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court.

5. 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's case (supra)**.

6. The petition is disposed of accordingly

(HARPREET SINGH BRAR)
JUDGE

15.02.2025
Ajay Goswami

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