



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

CRM-M-29174-2025

Date of decision: 26.05.2025

KISSAN BEEJ COMPANY AND ANOTHER

...PETITIONERS

V/S

GODREJ AGROVET LIMITED

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudesh Sahi, Advocate for the petitioners.

Mr. Munish Gupta, Advocate for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition under Section 528 of BNSS, 2023 has been filed for quashing of order dated 09.11.2023 (Annexure P-4) passed by the Court of learned Additional Sessions Judge, Chandigarh in an appeal CRA No.511 of 2023 titled as '*Kissan Beej Company and another vs. Godrej Agrovat Limited*' filed against the judgment of conviction and order of sentence dated 12.10.2023 passed by learned Judicial Magistrate Ist Class, Chandigarh in case bearing CNR No.CHCH03-003993-2019, whereby, the sentence of the petitioner was suspended conditionally by imposing a condition to deposit 20% of the compensation amount within 60 days.

2. The present complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as N.I. Act) has been initiated by Sh. Rudraneel Bhardwaj, authorized representative of complainant company with the submissions that petitioner No.2 authorised signatory of petitioner No.1-firm and the complainant company has business relations with the petitioners as petitioner No.1 was the distributor of the complainant for



pesticides functioning under the control and management of petitioner No.2. Total outstanding against the petitioners was Rs.34,99,800/-. In discharge of said liability, petitioner No.2 issued cheque bearing No.000336 dated 17.01.2019 for an amount of Rs.31,99,800/- drawn on HDFC Bank in favour of the complainant with the assurance that the cheque will be encashed upon its presentation. However, upon presentation, the said cheque was dishonoured with the remarks "Payment Stopped by Drawer" vide return memo dated 17.01.2019. Thereafter, the complainant got issued legal notice dated 28.01.2019 to the petitioner/accused, but he failed to pay the aforementioned amount. Hence, this complaint.

3. Vide judgment of conviction and order on quantum of sentence dated 12.10.2023 passed by learned Judicial Magistrate Ist Class, Chandigarh the petitioner No.2 was convicted and sentenced to undergo rigorous imprisonment for a period of two years for commission of offence punishable under Section 138 of Negotiable Instruments Act and was further directed to pay compensation to the tune of Rs.31,99,800/- i.e. the cheque amount to the complainant within a period of two months, along with default mechanism. Thereafter, the petitioners preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Chandigarh. The learned Appellate Court vide order dated 09.11.2023, suspended the sentence of the petitioner No.2 subject to depositing 20% of the compensation amount within 60 days of passing of the order.

4. Learned counsel for the petitioners *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



amount 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 petitioner 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.”

5. Having heard learned counsel for the parties 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 dated 09.11.2023 (Annexure P-4) is hereby set aside to the extent of imposing the condition of depositing 20% of compensation amount. The learned lower Appellate Court is directed to re-examine the case



after granting an opportunity to the petitioners 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.

6. 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)*.

7. The petition is disposed of accordingly.

May 26, 2025
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No