

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

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CRM-M-39517-2025 (O&M)

Date of decision: 04.08.2025

MOBILE N MORE SUPPORT PVT. LTD.**...Petitioner****VERSUS****STATE OF PUNJAB AND ANR.****...Respondents****CORAM : HON'BLE MRS. JUSTICE SUKHVINDER KAUR****Present:** Mr. HPS Ghuman, Advocate for the petitioner.

SUKHVINDER KAUR, J.(ORAL)**CRM-29260-2025**

Prayer in this application is for rectification in the head note and prayer clause of the main petition.

Keeping in view the averments, the same is *allowed* and impugned order dated 09.04.2025 (Annexure P-2) passed by the Court of learned Additional Sessions Judge, Sangrur, be read as ‘impugned order dated 09.04.2025 (Annexure P-2) passed by the Court of learned Additional Sessions Judge, Ludhiana’, in heading and prayer clause of the petition.

Registry is directed to make necessary corrections in the head note and prayer clause of the petition.

CRM-M-39517-2025

The present petition under Section 528 BNSS has been filed for quashing of order dated 09.04.2025 (Annexure P-2) passed by the Court of learned Additional Sessions Judge, Ludhiana, in an appeal bearing CRA-401 of 2025, whereby, while suspending the sentence of the petitioner,

awarded to him in complaint filed under Section 138 of NI Act, 1881, learned Court below directed the petitioner to deposit 20% of the compensation amount within 60 days from the date of passing of order.

2. The present complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as N.I. Act) was filed by the complainant alleging that the accused in discharge of his legal liability towards the complainant, issued cheque bearing No.066358 on 25.10.2012 amounting to Rs.6,00,000/- drawn on HDFC Bank, Shri Guru Ram Dass Senior Secondary School, Model Town Branch, Panipat. On presentation of the same, it was dishonoured and returned with the remarks 'Account closed' vide memo dated 01.11.2012.

3. Vide judgment and order dated 11.03.2025 passed by learned Judicial Magistrate First Class, Ludhiana, the petitioner was convicted and sentenced to undergo simple imprisonment for a period of twelve months for commission of offence punishable under Section 138 of Negotiable Instruments Act with a direction that the accused will pay compensation of Rs.6,00,000/- amount to the complainant so as to compensate the complainant for the harassment on account of dishonour of the cheque in question. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Ludhiana. The learned Appellate Court vide order dated 09.04.2025, suspended the sentence of the petitioner subject to depositing 20% of the compensation amount within 60 days.

4. 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 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 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 dated 09.04.2025 whereby, the condition of depositing 20% of compensation amount has been imposed for granting suspension of sentence upon the petitioner 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.

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.

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

04.08.2025
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(SUKHVINDER KAUR)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No