143 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53651-2025
Date of Decision: 16.10.2025

Shree Chand ..... Petitioner

Versus

Lajpat Manchanda ....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nafeesh Ahmed, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of impugned order dated 13.06.2025 passed by learned Sessions Judge, Gurugram directing the petitioner qua depositing 20% of compensation amount in a case bearing No.Criminal Appeal No.301 of 2025 titled as Shree Chand vs. Lajpat Manchanda, filed by the petitioner against the conviction order dated 17.05.2025 passed by learned JMIC, Gurugram, in Criminal Complaint bearing No.NACT 37474 of 2019.

2. Learned counsel for the petitioner has stated that the petitioner was prosecuted in a complaint under Section 138 of the Act and he was convicted by learned Judicial Magistrate First Class, Gurugram, under Section 138 of the Act, vide judgment dated 17.05.2025 and sentenced to undergo simple imprisonment for nine months and was ordered to pay compensation to the tune of Rs.37,50,000/- to the complainant. It is further submitted that against the order dated 17.05.2025, the petitioner filed an appeal before the Court of learned Additional Sessions Judge at Gurugram and learned Appellate Court vide its impugned order dated 13.06.2025 (Annexure P-3) suspended the sentence of petitioner subject to deposit of

20% of the compensation amount. He has submitted that in view of Section 148 of the Negotiable Instruments Act, 1881, automatic deposit of 10 % of the compensation amount, at the appellate stage, does not mandate. However, due to financial constraints, the petitioner failed to comply with the order dated 17.05.2025. However, he has submitted that Hon'ble Division Bench of this Court in the case of **M/s Coromandel International Limited vs. Shri Ambica Sales Corporation,** in CRM-M-7799-2025 decided on 24.09.20245 has dealt with the issue involved in the present petition and the has observed as under:-

> 75. The legislative sanction given to an Appellate Court to direct an Appellant who has challenged the conviction, sentence, and compensation amount, by filing an appeal, to deposit at least 20% of the compensation amount under Section 148 of the Negotiable Instruments Act, 1881, miserably fails on the proportionality test. The provision of Section 148 is based on proclivities and thus arbitrary; on the contrary, as per the literal and practical meaning, it does not authorize the Appellate Court to suspend the sentence by mandatorily imposing a condition of deposit. The purpose Section 148 intended to achieve was to ensure that at least 20% of the compensation amount is handed over to the holder of the cheque whose debt or other liability amount was withheld due to the dishonor of the cheque. However, due to ambiguous drafting because of the absence of clear procedures for quick recovery, e.g., freezing bank accounts to the extent of the deposit, attachment of property, etc., has led to the recovery of the deposits by imposition of conditions while suspending the sentence in a bailable offence. Furthermore, as per Section 148 of the NI Act, the only individual who can be compelled to deposit is the person who issued the cheque in his personal liability. For corporate entities, signing and issuing a cheque is

a ministerial act; the signatory is often an employee working for the company, with a limited liability partnership, association, body, or firm, and none of these can be forced to deposit due to vicarious liability, not personal liability. Additionally, suspending the sentence based on the deposit does not affect juristic persons because they cannot be imprisoned and thus cannot seek a suspension of sentence or appeal, as these are statutory rights that cannot be subjected to the deposit. Given the above, the legislatures' dominant purpose has failed miserably on two counts; first it does not impact juristic persons, and second, individuals whose cheques are often security cheques taken by the money lenders, and these individuals face forced recoveries, which may discourage some from even challenging their convictions, before the first appellate Court itself, disconnecting rationality behind the legislative objectives that section 148 NI Act projected to achieve, by not affecting the juristic persons on the one hand and discouraging the impoverished on the other, and thus, miserably fails to strike a fair, rationale, and a reasonable balance between the obligations of elected representatives towards the society's poorest segments, who at the time of emergency situations when they are in urgent need of money, the financial institutions rarely give any loan or immediate loan and these poor people, who have a weaker community support, turn to the money lenders, who in turn, mostly keep blank signed undated cheques as security for unsecured debts.

76. Therefore, the simplest solution to all these issues is that whenever the deposits are expensive than the liberty, and the Appellate Courts are convinced that the convicts are not in a position to deposit and likely to forego their liberty even when the first appeal is yet to be decided, the Appellate Courts must make efforts to prioritize hearing appeals filed against the convictions under Section 148 NI Act and decide those preferably within sixty days of filing, and not later

than ninety days, which clearly aligns with the legislators' intentions. However, the time of sixty days should be extended to the extent to which the decision of the appeal is delayed because of the complainant."

Thus, learned counsel for the petitioner has restricted his prayer to the extent that in view of the law laid down by Hon'ble Division Bench of this Court in **M/s Coromandel International Limited's** case (supra), learned Appellate Court be directed to decide the appeal filed by the petitioner within a period of 60 days.

3. Heard learned counsel for the petitioner and perused the record. Admittedly, Hon'ble Division Bench of this Court in **M/s Coromandel International Limited**'s case (supra) had already held the Appellate Courts must make efforts to prioritize hearing appeals filed against the conviction under Section 148 of NIA Act and decide the same within 60 days of the filing and not later than 60 days, where the appellant is not in a position to deposit the compensation amount as ordered by the Appellate Court.

4. Thus, in view of the same, the present petition is disposed of with a direction to the Appellate Court concerned to hear the appeal of the petitioner and decide the same within 60 days and not later than 90 days. It is further clarified that the parties shall not seek any unnecessary adjournments.

5. Disposed of.

(RAJESH BHARDWAJ)
JUDGE

16.10.2025
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No