2026:PHHC:085247

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33957-2025 (O&M)
Date of decision: 26.05.2026

Achutanand Dubey

... Petitioner

Vs.

Rohit Kumar Dubey

... Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. J.S. Sekhon, Advocate for the petitioner.

Mr. Mohit Bhardwaj, Advocate and
Mr. Munish Khangwal, Advocate for the respondent.

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SUBHAS MEHLA, J.

1. By way of present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'the BNSS'), the petitioner is seeking quashing of impugned order dated 22.04.2025 (Annexure P-14), passed by the Additional Sessions Judge, Faridabad, in criminal appeal bearing CRA No.48 of 2024, vide which, the application filed by the petitioner for recalling of the order dated 21.02.2024 (Annexure P-6) and subsequent order dated 04.12.2024 (Annexure P-9), in compliance of the order dated 03.02.2025 (Annexure P-12) passed by this Court has been dismissed.

2. In nutshell, the facts of the case are that a complaint bearing NACT No.8525 of 2018 was filed by the respondent under Section 138 of the

Negotiable Instruments Act, 1881 (for short 'NI Act') on the allegations that in the month of April, 2017, a common friend introduced the complainant to the petitioner and his son Ankit Dubey for entering into a business deal. It is further alleged that the petitioner and his son, by pretending themselves to be authorized dealer of Wagh Bakri Chai/U.S. Polo/Mee Mee Bady Products and other FMCG Products, induced the complainant to invest in their firm and assured him partnership to the extent of 40%. Upon this, the complainant transferred total amount of Rs.38,63,200/- between May, 2017 to October, 2017. When the complainant asked the accused to prepare the partnership deed, they did not do so on one pretext or other. Thus, the accused defrauded the complainant. Thereafter, the complainant requested the accused to return his money and under the social pressure, the accused issued three cheques bearing No.054523, 054524 and 054521, all dated 28.05.2018 for Rs.4.00 lakhs, Rs.6.00 lakhs and Rs.6.00 lakhs, respectively, drawn on Oriental Bank of Commerce, Sector 14, Faridabad through bank account No.06392010011250. On presentation before the bank, the abovementioned cheques were dishonoured vide return memo dated 30.05.2018 with remarks "Funds Insufficient".

3. Learned counsel for the petitioner contended that in the complaint under Section 138 of NI Act, the petitioner was convicted and sentenced vide judgment and order of sentence dated 18/22.01.2024, to undergo simple imprisonment for a period of one year, with a further direction to pay compensation of Rs.25.00 lakhs to the complainant. Thereafter, the petitioner

preferred an appeal before the first appellate Court, wherein, vide order dated 21.02.2024, he was directed to deposit Rs.5.00 lakhs i.e. 20% of the compensation amount within a period of 60 days from that date, in terms of Section 148 of NI Act. Feeling aggrieved, the petitioner approached this Court by way of filing a petition i.e. CRM-M-25479-2024 seeking quashing of the order dated 21.02.2024, which was dismissed as withdrawn with liberty to move an appropriate application seeking waiver of the condition of deposit of compensation to the extent of 20%. The application moved by the petitioner was also dismissed vide order dated 04.12.2024 and while cancelling his bail, bonds were forfeited to the State and warrants of arrest were issued.

The petitioner again approached this Court and filed CRM-M-5299-2025 seeking setting aside of the order dated 21.01.2025, which was disposed of after considering the submission of the petitioner that he has already deposited more than 20% of the compensation amount. Thereafter, the petitioner moved another application seeking recalling of the orders dated 21.02.2024 and 04.12.2024, which was also dismissed vide order dated 22.04.2025. It is thus contended that since the petitioner has deposited more than 20% of the compensation amount, present petition deserves to be allowed.

4. On the other hand, learned counsel for the respondent submits that after going through the material available on record and in terms of the orders passed by this Court, the first appellate Court has rightly passed the impugned orders. Till date, the respondent has not received a single penny from the petitioner. He further submitted that the alleged amount, which the petitioner is

claiming to have paid to the respondent, pertains to the different transaction held between the wife of the respondent and the petitioner. He prayed for dismissal of the present petition.

5. Heard.

6. The relevant content of the impugned order is reproduced as under:

> *"xxx...xxxx...xxxx*
> *From the perusal of trial court record, it reveals that some payment was made into the account of Urvashi Sapra by the appellant/convict but it is also proved on record that there were previous transactions between appellant/convict and the wife of complainant and it was that money, which was returned by appellant/convict through documents Ex.D2 and Ex.D3 and there is nothing on record to suggest that appellant/convict has already deposited more than 20% of the amount of compensation with the trial court and fact regarding payment of ₹12,84,000/- from time to time by the appellant/convict to the respondent/complainant was also considered while passing order dated 04.12.2024. Hence, in view of above discussion and further taking into consideration order dated 03.02.2025 passed by Hon'ble High Court, I am of considered view that no ground is made out to recall the order dated 21.02.2024 and subsequent order dated 04.12.2024 as appellant/convict failed to deposit more than 20% of the amount of compensation with the trial court as per alleged documents Ex.D2 and Ex.D3. Hence, present application for recalling the order dated 21.02.2024 and subsequent order dated 04.12.2024 stands dismissed. Now case stands adjourned to 02.07.2025 for presence of appellant/convict through warrant of arrest as well as notice to his surety. Ahlmad to do the needful for strict compliance."*

7. No illegal or perversity has been found in the impugned orders passed by the first appellate Court, whereby while relying upon Section 148 of NI Act rightly directed the petitioner to deposit Rs.5.00 lakhs i.e. 20% of the compensation amount i.e. Rs.25.00 lakhs awarded by learned trial Court in favour of the respondent. Further, the petitioner succeeded in obtaining stay of the impugned order dated 22.04.2025 (Annexure P-14) by misrepresenting that he has already paid 20% of the compensation amount to the respondent. The contention of the petitioner that he has already paid the amount to wife of the respondent is a question of fact. The trial Court has given its finding against the petitioner in respect of that question of fact. At this stage, while exercising the inherent power under Section 528 of BNSS, this Court is not supposed to meticulously examine the said fact as it is to be adjudicated by the first Appellate Court at the time of final hearing.

8. Keeping in view the facts and circumstances of the present case, this Court finds no merit in the present petition. Accordingly, the present petition is dismissed.

9. The pending miscellaneous application(s), if any, also stand(s) disposed of.

[SUBHAS MEHLA]
JUDGE

26.05.2026
vishnu

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No