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In the High Court of Punjab and Haryana at Chandigarh

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Date of Decision: 02.04.2025

BALRAJ @ RAJA

.....PETITIONER

VERSUS**STATE OF HARYANA AND OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE H.S.GREWAL

Present: Mr. Pawan Attri, Advocate for the petitioner.

H.S. GREWAL, J. (ORAL)

1. The instant petition has been filed under Section 528 of BNSS seeking quashing of order dated 05.12.2024 (Annexure P-3), passed by the Court of learned Additional Sessions Judge, Kurukshetra in CRA No.269 of 2024, titled as Balraj @ Raja vs. M/s Jai Kissan Dass, whereby, while suspending the sentence of the petitioner, as awarded to him in complaint filed under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act'), the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the trial Court within a period of 60 days.

2. It is argued by learned counsel for the petitioner that the impugned order (Annexure P-3) is not sustainable in the eyes of law as learned appellate Court, while giving such direction, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be



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imposed in exceptional circumstances. Hence, it is urged that the impugned order(Annexure P-3) passed by the appellate Court is liable to be set aside.

3. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction and quantum of sentence dated 12.11.2024, passed in a complaint filed under Section 138 of N.I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned Section and apart from awarding sentence to undergo rigorous imprisonment for a period of 01 year, had also directed him to pay compensation of Rs.4,40,000/- along with interest @ 9% per annum from the date of the cheque to the respondent. The petitioner challenged the order passed by the trial Court by filing appeal before the learned appellate Court and the appellate Court, vide impugned order dated 05.12.2024, suspended the sentence of petitioner, subject to his depositing 20% of the compensation amount with the trial Court.

4. In **Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. And others : (2024) 1 SCC (Cri) 90**, it was observed by Hon'ble Supreme Court that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the appellant. This proposition of law is shown to have been followed by the co-ordinate Bench of this Court in **Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024, decided on 24.01.2024**. In the instant case, while imposing condition of deposit of 20% of compensation



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amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned order dated 05.12.2024 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed. Accordingly, the same is set aside to that extent.

5. The matter is remanded to learned appellate Court for deciding the same afresh after re-examining the case by granting an opportunity to the petitioner to make submissions regarding exceptional circumstances warranting waiver of requirement of depositing 20% of the compensation amount in pursuance of judgment passed by Hon'ble Supreme Court in **Jambo Bhandari's** case (supra).

6. The petition stands allowed.

7. The petitioner is directed to appear before the appellate Court on 22.04.2025.

02.04.2025

A.Kaundal

Whether speaking/ reasoned :

Whether Reportable :

(H.S.GREWAL)

JUDGE

Yes/No

Yes/No