

2025:PHHC:090439



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

**CRM-M-38199-2025
Date of Decision: 21.07.2025**

M/s Grace Impex. and another

...Petitioners

Versus

M/s Shivalik Industries

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manuj Nagrath, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Prayer in the present petition filed under Section 528 of BNSS, 2023, is for quashing of the impugned order dated 02.05.2025 (Annexure P-9), passed by learned Judicial Magistrate Ist Class, Chandigarh in case bearing NACT No.6629 of 2020 titled as “*M/s Shivalik Industries Vs. M/s Grace Impex. and others*” vide which the petitioner was directed to deposit 20% of the total cheque amount as interim compensation to the complainant.

2. Learned counsel for the petitioner has stated that the petitioner has been prosecuted in a complaint case filed under Section 138 of the N.I. Act and vide order dated 28.03.2025 (Annexure P-1) passed by the learned JMIC in an application filed under Section 143-A of the Negotiable Instruments Act, 1881, petitioner has been ordered to pay 20% of the cheque amount as interim compensation to the complainant with the aid of Section 143-A of the Negotiable Instruments Act, 1881. However, due to financial constraints, the

petitioner failed to comply with the order dated 02.05.2025. He submits that even otherwise, the impugned order dated 02.05.2025 passed by the learned JMIC, Chandigarh is in violation of the law settled by Hon'ble Supreme Court in *Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. and others, 2024(1) SCC (Cri) 90* wherein it has been held that when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the NI 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 conclusion must be recorded, which is missing in the present case. It is submitted that learned trial Court has not appreciated the case and circumstances of the petitioner as per mandate of Hon'ble Supreme Court in *Jamboo Bhandari's case (supra)*.

3. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner has been ordered by the Ld. JMIC, Chandigarh to pay 20% of the cheque amount as interim compensation to the complainant with the aid of Section 143-A of the Negotiable Instruments Act, 1881. However, the petitioner did not comply with the same.

4. In view of the aforesaid facts and the judicial precedent settled by Hon'ble Apex Court in *Jamboo Bhandari's case (supra)*, without commenting anything on the merits of the case, the present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an appropriate application before it, which would be decided, by taking into consideration the law laid down by the Hon'ble Apex Court in *Jamboo*

Bhandari's case (supra) in this regard within one month from the date of its filing. The direction given in the order dated 02.05.2025 (Annexure P-9) by learned JMIC to the extent of depositing 20% of cheque amount as interim compensation, is set aside.

21.07.2025

Parveen kumar

**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No