



127

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27921-2025 (O&M)
DECIDED ON: 21.05.2025

M/S SRI SAMRATH UTILITY SERVICES PVT. LTD AND OTHERS
.....PETITIONERS

VERSUS

M/S SUGAL DAMANI UTILITY SERVICES PVT. LTD.
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amar Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 528 of BNSS, 2023 read with Section 482 Cr.P.C. with a prayer to quash impugned order dated 09.01.2025 (Annexure P-1) passed by the Ld. Addl. Sessions Judge, Gurugram, to the extent that the petitioner has been directed to deposit 20% of the total compensation amount as awarded by the Ld. Trial Court/JMIC, Bahadurgarh vide order dated 04.12.2024 passed in complaint case bearing No. NACT-8216 of 2018 titled *M/s Sugal & Damini Utility Services Pvt. vs. Sri Samarth Utility Services Pvt. Ltd. & Ors.* filed under section 138 of the Negotiable Instruments Act, 1881, without considering the facts and pleadings of the case and without evaluating the merits or recording any reasons for the same.

Learned counsel for the petitioners submits that the petitioner has filed an appeal alongwith exemption application taking all the grounds seeking exemption from depositing 20% of the compensation amount, but the Lower

Appellate Court without deciding the said application or by keeping the said application directed the petitioners to deposit 20% total compensation amount within 60 days from the date of orders, which is in total derogation with legal presumption applicable on the case.

The learned counsel for the petitioners argues that the lower Appellate Court erred in failing to properly consider the facts and wrongly imposed a condition requiring the deposit of 20% of the compensation. This condition, according to the counsel, is illegal, arbitrary, and violates the legal principles established by the Hon'ble Supreme Court in Criminal Appeal Nos. 2741 of 2023 (arising out of SLP(Crl.) Nos. 4927 of 2023, titled as Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others), decided on 04.09.2023 wherein it has been observed as under :

"6. What is held by this Court is that a purposive interpretation should be made of the 148 of the 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 accused 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."

After hearing the arguments of learned counsel for the petitioner and reviewing the judgment in Jamboo Bhandari (supra), it is evident that the lower Appellate Court was obligated to assess whether the current case falls under the exception. The impugned order dated 09.01.2025 (Annexure P-1) passed by the Ld. Addl. Sessions Judge, Gurugram, vide which imposed the condition of depositing 20% of the awarded compensation amount, is therefore set aside. The

lower Appellate Court is directed to reconsider the case, allowing the petitioner the opportunity to present arguments on the application, if any moved by the petitioner under Section 148 of NI Act, and to determine if the case warrants a waiver of the 20% deposit requirement as mandated by the trial Court. The trial Court is further directed to pass a speaking order on the application, which is pending for adjudication citing reasons within a period of two weeks from the date of receipt of certified copy of this order.

Till then no coercive steps be taken against the petitioners.

The petition is disposed of accordingly.

(SANDEEP MOUDGIL)
JUDGE

21.05.2025
Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*