

IN THE COURT OF SH. RAVINDER SINGH-II
ADDL. SESSIONS JUDGE-05
DWARKA COURTS: NEW DELHI

CA No. : 72/26

CNR No. DLSW01-001240-2026

RAMESH CHANDRA

S/o Late Sh Lalu Lal

R/o RZF-114, Gali NO. 4, Pipal Wali gali,

Raj Nagar, Palam Colony, New Delhi – 110077

(D-209, 2nd floor, Gali No. 10, Near Hone Store, DDA Park

Road, Raj Nagar – 2, Palam Colony, Delhi – 110077.

.... Appellant

VERSUS

1. STATE (NCT OF DELHI)

2. ROHTASH SINGH DAGAR

S/o Late Sh Indraj Singh Dagar

R/o D-209, 2nd floor, Gali No. 10, Near Hone Store,

DDA Park Road, Raj Nagar – 2, Palam Colony,

Delhi - 110075

.... Respondents

**ORDER ON THE APPLICATION OF THE APPELLANT
SEEKING EXEMPTION/ WAIVER FROM DEPOSITING 20%
OF THE FINE/COMPENSATION AMOUNT IN TERMS OF
SECTION 148 OF THE NEGOTIABLE INSTRUMENTS ACT,
1881, DURING PENDENCY OF THE PRESENT CRIMINAL
APPEAL**

1. Vide this order, I shall dispose of the application moved by the appellant seeking exemption/ waiver from depositing 20% of the fine/compensation amount in terms of Section 148 of the Negotiable Instruments Act, 1881 (*hereinafter said as NI Act*) during pendency of the present criminal appeal.

2. It is submitted by the Ld Counsel for the appellant that the appellant belongs to a financially weak background and has no stable source of income and his family is dependent upon him. It is further submitted that the appellant is presently being represented through Legal Aid Counsel at State expense which itself reflects his inability to arrange private Legal representation. It is also submitted that insistence upon deposit of 20% of the fine/compensation amount would cause grave hardship to the appellant and would virtually impair his right of appeal. Learned counsel for the appellant has further submitted that Section 148 of the NI Act does not create an absolute and inflexible mandate for deposit of 20% in every case. Accordingly, it is prayed that the application of the appellant may be allowed and he be exempted from depositing 20% of the fine/ compensation amount.

3. *Conversely*, Learned counsel for the respondent /complainant has strongly opposed the application. It is submitted that the application is vague, unsupported by any cogent document and has been filed only to delay the execution of the sentence and payment of compensation. It is further argued that the appellant has not placed on record any bank statement, income proof, income tax return, document showing unemployment, document showing inability to arrange funds or any other material to substantiate the plea of financial hardship.

5. Learned counsel for the respondent has further submitted that the complainant/ respondent has been deprived of his amount and that the appellant stands convicted after a full-fledged trial and the presumption under Sections 118 and 139 of the N.I Act has been decided against him by the Learned Trial Court. It is further

submitted that the legislative object behind Section 148 of the NI Act is to prevent convicted drawers of dishonoured cheques from frustrating the complainant's right to realise the amount by merely filing an appeal. Learned counsel has also relied upon the Judgment of *Surinder Singh Deswal @ Col. S.S. Deswal & Ors. v. Virender Gandhi*, 2019 11 SCC 341 wherein the Hon'ble Supreme Court held that deposit under Section 148 NI Act is ordinarily the rule and non-deposit is an exception for which special reasons are required to be recorded.

6. *I have heard the submissions of the Learned counsel for the parties and have carefully perused the record.*

7. The Legal position in relation to Section 148 of the Negotiable Instruments Act now stands well settled. In ***Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. & Ors.***, 2023 INSC 822 the Hon'ble Supreme Court clarified that deposit of 20% under Section 148 NI Act is not an absolute rule admitting no exception. It was held that where the Appellate Court is satisfied that directing deposit of 20% would be unjust or would amount to deprivation of the appellant's right of appeal, the Court may make an exception but such exception must be supported by specific reasons.

8. The legal position therefore, is that the Appellate Court is required to exercise judicial discretion. The normal rule is to direct deposit under Section 148 of the NI Act and waiver from deposit is an exception. Further such exception cannot be granted merely on bald assertions of financial hardship and the appellant must place sufficient material before the Court to show that the case is

exceptional and that insistence upon deposit would be unjust or would effectively deprive him of his statutory right of appeal.

9. In the present case, the appellant has pleaded financial weakness, unemployment, dependence of family members and representation through Legal Aid Counsel. However, evidently except making general assertions, no cogent documentary material has been placed on record to show that the appellant is incapable of depositing the statutory amount. No bank statement, income proof, details of liabilities, medical record, proof of unemployment, proof of dependent family members or any other reliable material has been filed to demonstrate that the present case falls within the exceptional category.

10. The fact that the appellant is represented through Legal Aid Counsel is a relevant circumstance but this itself cannot automatically be taken a waiver of the requirement under Section 148 of the NI Act. The Court has to consider whether the material on record establishes exceptional hardship of such a degree that directing deposit would amount to denial of the right of appeal which are totally absent in the present case. Therefore, on the basis of the available record, this Court is not satisfied that such exceptional circumstances have been made out.

11. It is also relevant that the respondent/complainant has opposed the application on the ground that the complainant has been deprived of the cheque amount for a considerable period. Section 148 of the NI Act was enacted precisely to balance the right of appeal of the convicted drawer with the right of the complainant to receive at least a part of the amount during

pendency of appeal. Evidently, the appellant cannot claim waiver as a matter of right merely by pleading financial difficulty without supporting material which is the situation in the present appeal.

12. *Therefore, in view of the aforesaid discussion, this Court holds that the appellant has failed to make out any exceptional case for complete waiver/exemption from deposit under Section 148 NI Act. The application filed by the appellant seeking waiver/exemption from deposit of the 20% of the fine/compensation amount is accordingly dismissed.*

13. *The appellant is directed to deposit 20% of the fine/compensation amount awarded by the learned Trial Court within a period of 60 days from today, in terms of Section 148(2) of the NI Act.*

It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the appeal. The appeal shall be decided independently on its own merits and in accordance with law.

Application of the appellant stands disposed of accordingly.

Copy of this order be given dasti to both sides, as prayed.

(Ravinder Singh - II)
ASJ-05/South-West District,
Dwarka/ Delhi/25.05.2026