

Subhash Vs Kushal Singh

Cr. Revision No. 81 of 2024

27.2.2024 Present: Mr. Sanjeev K. Suri, Advocate vice Ms. Madhurika Sekhon, Advocate, for the petitioner.

The petitioner has been convicted for the offence punishable under Section 138 of Negotiable Instruments Act in criminal case No. 436-3 of 2019/2013, titled as, 'Kushal Singh versus Subhash' by the Court of learned Additional Chief Judicial Magistrate, Court No. 1, Rohru, District Shimla (hereinafter referred to as 'the trial Court'), vide judgment dated 31.8.2023. Vide order of sentence dated 31.8.2023, he has been ordered to undergo simple imprisonment, for a period of six months and to pay compensation of Rs. 1,90,000/-, and, in the event of default in making the payment of compensation, he has been ordered to undergo further simple imprisonment, for a period of two months.

2. The aforesaid judgment of conviction and order of sentence has unsuccessfully been assailed by the petitioner before the Court of learned Additional Sessions Judge, Rohru, District Himachal Pradesh, H.P. (hereinafter referred to as 'the first

appellate Court') in criminal Appeal No. 130-R/10 of 2023, vide judgment dated 6.1.2024.

3. Aggrieved from the judgment of conviction and order of sentence, passed by the learned trial Court, as referred to above, and affirmed by the Court of learned First Appellate Court, the petitioner has preferred the instant revision petition.

4. There are certain arguable points involved in the present petition, as such, notice be issued to the respondent, on steps being taken within a week, returnable for 26.3.2024.

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5. By way of the present application, under Section 397 (2) of the Code of Criminal Procedure, the petitioner/applicant has sought the suspension of order of sentence, dated 31.8.2023, passed by the learned trial Court and affirmed by the learned First Appellate Court, as referred to above.

6. Since the revision against the judgment of conviction and order of sentence, as referred to herein- above will take sufficient long time, for its disposal, as such, the order of sentence is suspended during the pendency of the revision, subject to the following conditions:

(i) That the applicant shall furnish personal bond in the sum of Rs. 30,000/-, alongwith one surety of the like amount, to the satisfaction of the learned trial Court, within a period of four weeks from today, with an undertaking that in the event of final dismissal of the revision petition, he will surrender before the learned trial Court to serve the remainder substantive sentence;

(ii) That the applicant shall deposit 30% of the total amount of compensation, with the learned trial Court, within a period of four weeks from today, which shall be in addition to the amount, if any, already deposited by the applicant;

7. The application is, thus, disposed of.

8. A copy of this order be sent to the learned trial Court, with the direction that the report of compliance of this order be submitted to this Court within a period of six weeks.

(Virender Singh)
Judge

February 27, 2024
(kalpana)