



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.493 of 2025

Deepak Kumar Das

.... **Petitioner**

Mr. B.S. Das, Advocate

-Versus-

Dolagobinda Pradhan

.... **Opposite party**

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

12.08.2025

Order No.

01.

1. Heard Mr. Das, learned counsel for the petitioner.
2. No notice is issued to the opposite party as the matter is disposed of at the stage of admission.
3. Instant revision is filed by the petitioner assailing the impugned order dated 2nd July, 2025 passed in connection with Criminal Appeal No.09 of 2025 by learned Sessions Judge, Deogarh, whereby, an application seeking deposit of 20% of the compensation amount awarded by the learned S.D.J.M., Deogarh in 1CC Case No.05 of 2020 (T.R. No.440 of 2022) for being dispensed with has been declined.
4. Referring to the Apex Court's decision in **Jamboo Bhandari Vrs. M.P. State Industrial Development Corporation Ltd. and others** in Criminal Appeal No(S). 2741 of 2023, it is submitted by Mr. Das, learned counsel for the petitioner that an exception was carved out by the petitioner seeking waiver of the statutory deposit of 20% of the



compensation amount but it has not been duly appreciated by the learned court below and ultimately, the application under Section 148 of NI Act was rejected. One more decision of the Apex Court in **Muskan Enterprises and another Vrs. The State of Punjab and another** in Criminal Appeal No.5491 of 2024 is placed reliance on by Mr. Das, learned counsel to contend that the learned court below failed to consider dispensing with the statutory deposit of 20% of the amount awarded in favour of the opposite party, in the peculiar facts and circumstances of the case, when the petitioner had lodged the FIR regarding the missing of the cheque and the alleged cheque of the year 2013 was presented for encashment in 2019, hence, therefore, the impugned order dated 2nd July, 2025 at Annexure-1 is liable to be interfered with. A certificate copy of the application seeking exemption from the payment of statutory deposit moved before the learned court below is produced in Court today by Mr. Das, learned counsel for the petitioner and the same is gone through.

5. In **Jamboo Bhandari** (supra), it is held and observed that a purposive interpretation should be resorted to in respect of Section 148 of the NI Act and concluded that normally an Appellate Court would be justified in imposing the condition of deposit as provided therein, however, in case, satisfied that condition of the deposit of 20% to be unjust or it would amount to deprivation of the right of appeal, exception can be made for reasons specifically recorded. The above decision has been referred to by the Apex Court in **Muskan Enterprises** (supra)



and reiterated the view that if the Appellate Court finds a case to be exceptional to not call for a deposit, reasons are to be recorded in the order.

6. In fact, this Court in **Priti Ranjan Pani Vrs. Ratnakar Sethi** (CRLREV No.229 of 2025) disposed of on 18th June, 2025 has taken judicial notice of the decision in **Jamboo Bhandari** (supra) and accordingly, directed to reconsider it by the court in appeal towards exemption vis-a-vis statutory deposit in terms of Section 148 of the NI Act.

7. In the case at hand, on a reading of the impugned order as at Annexure-1, it is made to understand that the learned court below reached at a conclusion of having no exceptional circumstances exist in favour of the petitioner to warrant exercise of any discretion and to exempt such payment of 20% of the compensation amount as required under Section 148 of the NI Act. But, having regard to the plea advanced by the petitioner and the fact that the cheque is of the year 2013 and it was dishonored in 2019 after being presented for encashment and a report was lodged by the petitioner regarding theft of the cheque registered as Deogarh PS Case No.699 of 2022, the said plea at once should have been considered by the learned court below while dealing with the application dated 21st May, 2025 in the appeal. On a bare reading of Annexure-1, the Court finds that the learned court below has not taken cognizance of the aforesaid facts and the plea of the petitioner, inasmuch as, no discussion has been held, as to if, any such exception to have been carved out by the petitioner. Though, the order at



Annexure-1 is an elaborate one but does not deal with the plea of the petitioner in specific while reaching at a conclusion whether any such exceptional circumstances really existed to exercise the discretion in the light of the decision of the Apex Court in **Jamboo Bhandari** (supra) and therefore, the Court is of the humble view that a reconsideration is necessary.

8. Accordingly, it is ordered.

9. In the result, the revision petition stands disposed of with a direction to the learned Sessions Judge, Deogarh to freshly consider the application received from the petitioner seeking exemption towards payment of the statutory deposit as required under Section 148 of NI Act in the light of the discussion made herein above and keeping view of the settled principle of law laid down by the Apex Court in **Jamboo Bhandari** (supra) reiterated in **Muskan Enterprises** (supra) and thereafter, to pass a detailed order vis-à-vis the existence of any such circumstances to allow the exemption either in whole or part followed by an order at the earliest preferably within a period of fifteen days from the date of receipt of a copy of this order. As a necessary, the impugned order dated 2nd July, 2025 passed in Criminal Appeal No.09 of 2025 is hereby set aside with the direction as aforesaid to be complied within the stipulated period.

10. Urgent copy of this order be issued as per rules.

Signature Not Verified

Digitally Signed
Signed by: ROJINA SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 14-Aug-2025 17:53:54



(R.K. Pattanaik)
Judge