

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MMO No. 36 of 2014

Decided on: 7th March, 2014

Dagu RamPetitioner.

Versus

Dumani Ram and another ...Respondents.

Coram

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

Whether approved for reporting?¹ No.

For the petitioner: Mr. Vishal Bindra, Advocate.

For the respondents: None for respondent No. 1.

**Mr. Virender Verma, Addl. A.G with
Mr. Pushpinder Jaswal, Dy. A.G for
proforma respondent No. 2.**

Dharam Chand Chaudhary, Judge (Oral)

Challenge herein is to the order passed on 06.01.2014 in an application for extension of time filed in an appeal, the petitioner has preferred against his conviction and sentence in a case under Section 138 of the Negotiable Instruments Act in the Court of learned Additional Sessions Judge (II), Mandi, District Mandi, H.P.

2. The execution of the substantive sentence passed against the accused-petitioner has been ordered to be suspended by learned Additional Sessions Judge vide order passed on 19.11.2013, subject to deposit of 50% of the amount under the cheque allegedly bounced, within one month. The accused-petitioner, however, has failed to deposit the amount in question within the stipulated period and to the contrary filed an application for extension of time. Learned

¹ Whether the reporters of Local Papers may be allowed to see the judgment ? Yes.

Additional Sessions Judge vide order passed on 06.01.2014 has granted one month's more time for deposit of the amount in question. He, however, failed to deposit the amount even within the extended time and instead of filing an application for further extension of time in the Court below, has preferred this petition with a prayer that time may be ordered to be extended by three months more for deposit of the amount in question.

3. I am afraid that this petition can be entertained and any such order passed by this Court in the exercise of inherent powers under Section 482 of the Code of Criminal Procedure. The remedy available to the accused-petitioner rather was to have approached the learned Additional Sessions Judge by filing appropriate application for extension of further time. This petition, therefore, is dismissed, however, with liberty reserved to the accused-petitioner to file application for extension of time in the Court below within two weeks from today. In case any such application is filed, learned lower Appellate Court shall consider the same in accordance with law, and in case no such application is filed, the law will take its own course.

4. Pending application(s), if any, shall also stand disposed of.

Dasti *copy*.

March 7, 2014
(naveen)

(Dharam Chand Chaudhary)
Judge