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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.REV.P. 314/2013 & Crl. M.A. Nos.8623/2013 &
Crl. M.A. No. 8624/2013 & Crl. M.A. No.1117/2013

SHRUTI PAPER CO. (PROPRIETORSHIP FIRM) THR. ITS
PROPRIETOR Petitioner

Through: Ms. Manju Kansal, wife of proprietor
of petitioner-firm

versus

INDIA BULLS FINANCIAL SERVICES LTD. Respondent

Through: Mr. Arun Kumar, Authorized
Representative

+ CRL.REV.P. 316/2013 & Crl. M.A. No. 8660/2013 &
Crl.M.A. No.8660/2013 & Crl. M.A. No. 8686/2013

SHRUTI PAPER CO. (PROPRITORSHIP FIRM) THR. ITS.
PROPRIETOR Petitioner

Through: Ms. Manju Kansal, wife of proprietor
of petitioner-firm

versus

INDUABULLS FINANCIAL SERVICES LTD. Respondent

Through: Mr. Arun Kumar, Authorized
Representative

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **27.05.2013**

The above captioned two petitions arise out of a business loan transaction between the parties and since not only the parties are common in both these matters but even dishonouring of two cheques of ₹14,50,000/-

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and ₹53,152/- is related to single business loan transaction and so, both these petitions assailing petitioner's conviction and sentence under complaint under Section 138 of the *Negotiable Instruments Act, 1881* have been heard together and are being disposed of by this common order.

In the above captioned first petition, the dishonoured cheque was of ₹14,50,000/- whereas in the above captioned second petition, the dishonoured cheque was of ₹53,152/-. Impugned judgment of 2nd May, 2013 upholds petitioner's simple imprisonment of six months in the above captioned first petition and simple imprisonment of one month in the above captioned second petition with fine / compensation of ₹6,00,000/- and ₹55,000/- respectively.

Ms. Manju Kansal, wife of proprietor of petitioner-firm appears in person and draws attention of this Court to the Settlement of 17th May, 2013 (*Annexure P-4*) and submits that petitioner is already behind bars for a period of more than twenty days and the Settlement (*Annexure P-4*) has been acted upon and so, sentence imposed upon petitioner deserves to be reduced to the period already undergone by him, as she has instructions from petitioner-husband to submit that in case any of the post dated cheques of the settled amount get dishonoured, then petitioner is ready to undergo the substantive sentence awarded to him by this Court.

Upon notice, Mr. Arun Kumar, Authorized Representative of respondent-company appears and has shown his original Power of Attorney of 2nd April, 2013 in his favour and has placed on records its copy, which is directed to be taken on record. He has also placed on record his affidavit confirming factum of settlement arrived at with petitioner-firm and submits that in terms thereof, a sum of ₹5,00,000/- [₹2,00,000/- by way of a banker's

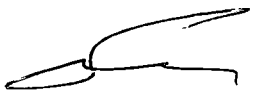
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cheque and ₹ 2,00,000/- and ₹1,00,000/- by way of two demand drafts] has been already received by respondent-company and in view of four post dated cheques of ₹2,00,000/- each handed over by petitioner-firm to respondent - company, the sentence imposed upon petitioner can be reduced to the period already undergone by him subject to furnishing an undertaking by petitioner that in the event of dishonouring of these post dated cheques, petitioner will undergo the substantive sentence so indicated by this Court.

Upon perusal of the impugned judgment, I find no infirmity in it. However, keeping in view the Settlement (*Annexure P-4*) arrived at between the parties, the substantive sentence awarded to petitioner is reduced to the period already undergone by him with the rider that in case any of the four post dated cheques are dishonoured, then petitioner shall be made to undergo simple imprisonment of six months each. Petitioner be released forthwith, if not wanted in any other case. Upon release from jail, petitioner shall furnish an undertaking before the trial court within a week that the post dated cheques in question will be honoured and the trial court shall ensure that the post dated cheques are honoured and in case of any single default, petitioner be made to undergo substantive sentence, as indicated above.

With aforesaid modification, above captioned petitions and applications are disposed of.

Copy of this order be given *dasti* under the signatures of Court Master to petitioner's wife.


(SUNIL GAUR)
JUDGE

MAY 27, 2013

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