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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1751 of 2007 (O&M)

Date of decision: December 09, 2015

Harjit Singh alias Meeta

.....Petitioner

Versus

Harwinder Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K. Laddi, Advocate
for the petitioner.

Mr. Sarbjit Singh, Advocate
for respondent No.1.

Mr. J.S. Sekhon, AAG Punjab.

SABINA, J

Petitioner had faced trial in complaint No.34 dated 25.02.2005 filed by respondent No.1 titled as "Harwinder Singh versus Harjit Singh alias Meeta", under Section 138 of the Negotiable Instruments Act, 1881 ('Act' for short) with regard to dishonor of cheque dated 15.10.2004 in the sum of ₹6,25,000/-.

Trial Court vide judgment/order dated 06.02.2007 ordered the conviction and sentence of the petitioner qua commission of offence punishable under Section 138 of the Act. In an appeal filed by the petitioner, his conviction and sentence as ordered by the trial Court were upheld by the Appellate Court vide order dated 24.08.2007. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the complainant had not examined any bank official while leading his evidence to prove the factum of dishonor of cheque in

question. Rather the petitioner had examined DW-1 bank official to establish that the cheque in question was returned by the Bank because of clerical mistake. In fact, the unused cheques qua the account of the petitioner had been destroyed in the system on 22.12.2004. Be that as it may, learned counsel for the petitioner has submitted that he does not challenge the conviction of the petitioner under Section 138 of the Act, but the sentence qua imprisonment of the petitioner be reduced to the period already undergone by him. Petitioner is facing the criminal proceedings since the year 2005 and is the only bread-earner of the family and has undergone more than four months of actual sentence. Petitioner is not a previous convict.

Learned counsel for respondent No.1 on the other hand, has opposed the petition.

Keeping in view the submissions made by learned counsel for the petitioner, it would be just and expedient to reduce the sentence qua imprisonment of the petitioner to the period already undergone by him.

Accordingly, conviction of the petitioner under Section 138 of the Act, is maintained. However, sentence qua imprisonment of the petitioner is reduced to the period already undergone by him.

Petition stands disposed of, accordingly.

**(SABINA)
JUDGE**

December 09, 2015
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