

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR No. 1422 of 2015 (O&M)
Date of Decision: April 27, 2015**

New Bitto Timber Traders, Jagadhari and another

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. R.S. Mamli, Advocate
for the petitioners.

JASPAL SINGH.J (ORAL)

Challenge in this revision petition is to the judgment and order of conviction dated April 07, 2015 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari whereby judgment of conviction dated October 30, 2012 and order of sentence dated October 30, 2012 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari was upheld vide which petitioner has been convicted under Section 138 of Negotiable Instruments Act (for short "Act") and sentenced to undergo RI for a period of six months. Petitioner was also directed to pay compensation to the complainant to the tune of ₹2,30,000/- in terms of section 357(3) Cr.P.C. within two months and in default of payment of compensation to further undergo RI for one month.

2. Briefly stated, facts giving rise to the instant *lis* are that petitioners were liable to pay sale consideration of popular trees to

the tune of ₹2,30,000/-. Thus they issued a cheque No. 652425 dated November 01, 2007 amounting to ₹2,30,000/- in favour of complainant/respondent, in order to discharge their legally enforceable liability. The said cheque on its presentation before bank for encashment was dishonoured and returned back with remarks "Funds insufficient". A legal notice dated November 06, 2007 was also issued to the petitioners by the complainant/respondent but to no response and ultimately, a complaint under Section 138 of the Act was preferred.

3. After hearing learned counsel for the parties and perusing the record, learned trial Court convicted accused-petitioners under Section 138 of the Act and sentenced to the period fully reflected in para 1 of this judgment.

4. Aggrieved against judgment of conviction dated October 30, 2012 and order of sentence dated October 30, 2012 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari, petitioners preferred an appeal before learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, which was also dismissed on April 07, 2015. Hence, the present petition.

5. At the very outset of argument, it has been contended by learned counsel for the petitioners that cheque amount i.e. ₹2,30,000/- has already been paid to respondent/complainant and to buttress his contention he has referred to receipt dated April 27, 2015, which has been taken on record. The respondent/complainant is also present in Court who has admitted

the correctness of receipt and has stated that on receipt of sum of ₹2,30,000/-, he has issued this receipt which bears his signatures.

6. Since the entire payment of cheque amount has already been paid and respondent/complainant has admitted the said fact there remains no dispute between the parties, this Court is left with no other option but to allow the petition. Resultantly, instant revision petition is accepted and orders of conviction and sentence passed by the both the Courts below are set-aside. Petitioners have been acquitted of the charge framed against them. They have been ordered to be set at liberty forthwith if not required in any other case.

April 27, 2015
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(JASPAL SINGH)
JUDGE