

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218 **Criminal Revision No. 1770 of 2014 (O&M)**
Date of decision : 23.02.2015

ParamjitPetitioner

Versus

Kuldip Raj and anotherRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Ritesh Pandey, Advocate
for the respondents.

LISA GILL, J.

On 30.10.2014 learned counsel for respondents had stated on instructions that in case the petitioner was ready and willing to deposit the entire amount alongwith 12% interest per annum, the respondents would be ready to compound the offence even at this stage.

Learned counsel for the petitioner, on instructions, submits that the petitioner is not inclined to deposit the said amount.

It is brought to my notice that on 28.07.2014, notice had been issued in this case limited to the quantum of sentence imposed upon the petitioner. Order dated 28.07.2014 reads as under:-

“ *Learned counsel for the petitioner submits that he does not want to press this revision so far as the conviction of petitioner is concerned and has confined his argument for leniency in the quantum of sentence awarded to the petitioner.*

Notice of motion to this limited extent for 30.09.2014.”

This petition has been filed challenging the judgment and order dated 08.07.2011 by the trial court as well as judgment dated 20.05.2014 passed by the learned Additional Sessions Judge, Gurdaspur wherein said conviction and sentence has been upheld.

Complaint under Section 138 of Negotiable Instruments Act (for short 'the Act') read with Section 420 IPC had been instituted by respondent – Kuldeep Raj on the averments that the petitioner borrowed a sum of ₹ 1,88,000/- for running the business of Sun Bright Hosierty, Dhariwal and domestic needs. In order to discharge her liability, two cheques No.C/BT/100 274061 and C/BT/100 274100 dated 16.02.2006. were issued in favour of the complainant. Said cheques were dishonoured on account of 'insufficient funds'. Notice was issued but payment was not released. Hence, the complaint was filed.

Learned trial Court vide impugned judgment on appreciation of evidence on record found the petitioner guilty of the offence punishable under Section 138 of the Act.

Appeal preferred by the petitioner has also been dismissed by learned Additional Sessions Judge, Gurdaspur vide impugned judgment dated 20.05.2014. It has been held by both the courts that the cheques in question were indeed issued by the petitioner to the respondent to discharge legally enforceable liability.

Learned counsel for the petitioner while not addressing the matter on merits states that the sentence of one year imposed

upon the petitioner is not commensurate with the offence. It is contended that the petitioner is a lady and a first offender. Therefore, she be afforded the benefit of probation or in the alternate the sentence imposed upon her be reduced.

It is pertinent to note that the respondents had offered to compound the matter even at this stage in case the petitioner was ready and willing to deposit the entire amount alongwith 12% interest per annum. However, the petitioner did not come forward and has infact declined to deposit even a part of the amount in question.

Keeping in view the facts and circumstances, I do not find it appropriate to extend the benefit of probation to the petitioner and neither reduction in the sentence imposed is called for.

Consequently, this petition is dismissed.

February 23, 2015
rts

(LISA GILL)
JUDGE