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

CRR No.2929 of 2014 (O&M)

Date of decision: January 27, 2015

Anurita Sharma

.....Petitioner

Versus

Arina

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amit Parashar, Advocate
for the petitioner.

SABINA, J

Respondents had faced trial in a compliant filed by the petitioner under Section 138 of Negotiable Instruments Act, 1881 ('Act' for short) qua dishonour of cheque dated 12.11.2009 in the sum of ₹50,000/-. Trial Court vide judgment/order dated 08.05.2012 ordered the conviction and sentence of the respondent qua commission of offence punishable under Section 138 of the Act. Aggrieved against the said judgment/order of her conviction and sentence, respondent preferred an appeal. Before the Appellate Court, respondent did not challenge her conviction as ordered by the trial Court under Section 138 of the Act, but had prayed that her sentence qua imprisonment be set aside as she was ready to pay the cheque amount along with penalty.

Appellate Court vide impugned order dated 20.05.2014, maintained the conviction of the respondent under Section 138 of the Act, but set aside her sentence qua imprisonment. However, sentence qua fine as imposed by the trial Court was maintained and respondent was directed to deposit ₹1,00,000/-, i.e. double of the cheque amount with the trial Court upto 22.05.2014 which was to be released to the petitioner by way of compensation. It was further ordered

that in case, respondent failed to deposit the said amount, then she shall undergo the sentence qua imprisonment as imposed by the trial court.

Learned counsel for the petitioner has submitted that the petitioner had not given his consent to accept the cheque amount.

In the present case, during the pendency of the appeal, respondent made a statement that she was ready to deposit the cheque amount alongwith penalty. Respondent had not challenged her conviction before the Appellate Court as ordered by the trial Court qua commission of offence punishable under Section 138 of the Act. Thus, conviction of the respondent qua commission of offence punishable under Section 138 of the Act, was maintained by the Appellate Court. It is only, that, the sentence qua imprisonment of the respondent was set aside by the Appellate Court and respondent was directed to deposit double of the cheque amount with the trial Court within the stipulated period. It was further directed by the Appellate Court that in case, respondent failed to deposit the amount of ₹1,00,000/- within the specified peirod, then she shall undergo the sentence qua imprisonment as imposed by the trial Court.

In the facts and circumstances of the present case, the order passed by the Appellate Court, is just and fair and calls for no interference.

Dismissed.

**(SABINA)
JUDGE**

January 27, 2015

m.singh