

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

**Criminal Revision No.1952 of 2012
Date of Decision:-25.05.2016**

Satish Kumar Sahni

...Petitioner

Versus

Amit Madan and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Hardip Singh, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional A.G., Haryana.

HARI PAL VERMA J.

Petitioner Satish Kumar Sahni has filed the present revision petition against the judgment dated 15.6.2012 passed by learned Additional Sessions Judge, Yamunanagar at Jagadhri, whereby his appeal against the judgment of conviction dated 15.2.2011 and order of sentence dated 16.2.2011 passed by learned Judicial Magistrate 1st Class, Jagadhri in

Criminal Complaint No.269-2 of 2008 titled 'Amit Madan vs. Satish Kumar Sahni' was dismissed.

Briefly stated, respondent No.1 has filed a complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter called 'the Act').

As per the allegations, the petitioner in order to discharge his liability has issued a cheque No.125401 dated 19.5.2008 for a sum of Rs.30,000/- drawn at UCO Bank, Yamunanagar in favour of respondent-complainant. The cheque was accepted by the complainant and when presented for encashment through its banker i.e. UCO Bank, Jagadhri, the said cheque was dishonoured on account of "Funds Insufficient" vide memo dated 21.5.2008. Notice as required under the Act was issued to the petitioner, but still the petitioner did not make the payment, compelling the respondent-complainant to file the complaint under Section 138 of the Act.

The petitioner was summoned for offence under Section 138 of the Act and notice of accusation was served upon him vide order dated 11.2.2009. The petitioner did not plead guilty and rather claimed trial.

The trial Court vide judgment dated 15.2.2011 held the petitioner guilty for offence under Section 138 of the Act and vide separate order dated 16.2.2011 sentenced him to undergo simple imprisonment for six months alongwith direction to pay a sum of Rs.36,000/- as compensation under Section 357(1) Cr.P.C. to the complainant.

Aggrieved against the said judgment of conviction and order of

sentence, the petitioner and the complainant preferred their respective appeals. The petitioner has challenged the judgment of conviction, whereas the respondent-complainant has prayed for enhancement of sentence. The learned Appellate Court did not interfere in the judgment passed by the trial Court convicting the petitioner, however, sentenced him to undergo rigorous imprisonment for a period of six months instead of simple imprisonment and also directed to pay Rs.36,000/- as compensation under Section 357(1) Cr.P.C. to the complainant. Thus, while deciding the appeal filed by the complainant, same was partly accepted and sentence awarded to him was converted into rigorous imprisonment of six months instead of simple imprisonment for six months.

It is in the aforesaid circumstances the petitioner filed the present revision petition.

Learned counsel for the petitioner at the outset submits that as against the awarded sentence of six months, the petitioner remained in custody for about one month and 24 days. He confined his arguments on the point of quantum of sentence and prays that as the petitioner has already deposited the compensation of Rs.36,000/- in the trial Court, the sentence awarded to the petitioner may be reduced to the period already undergone by him.

No one is present on behalf of respondent.

I have heard learned counsel for the petitioner.

Vide order dated 6.8.2012 this Court had admitted the present

revision petition and further ordered the release of the petitioner on bail subject to deposit of Rs.36,000/- in the trial Court without prejudice to the right of the petitioner.

Although the scope of interference by this Court in revisional jurisdiction is very limited, however, taking into consideration the fact that the petitioner has already deposited the compensation amounting to Rs.36,000/- with the trial Court coupled with the fact that he remained in custody for one month and 24 days and is facing the agony of protracted trial since the year 2008, when the complaint was filed, I am of the opinion that ends of justice would be met if the sentence of the petitioner is reduced to the period already undergone by him.

It is not in dispute that the offence under Section 138 of the Act though is criminal in outlook but has a civil liability as well. Considering the custody of the petitioner as well as the fact that the petitioner is first time offender, the sentence awarded to the petitioner is reduced to the period already undergone by him.

Accordingly, the impugned judgment of conviction dated 15.2.2011 and order of sentence dated 16.2.2011 passed by learned Magistrate and affirmed by the lower Appellate Court with modification, are upheld. However, the impugned order of sentence is modified to the aforesaid extent.

With aforesaid modification in the order of sentence, the instant revision petition stands dismissed.

It is made clear that in case the amount deposited by the petitioner has not been withdrawn by the respondent-complainant, the trial Court shall release the said amount to the complainant forthwith.

May 25, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE