

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

CRR No. 1065 of 2014 (O&M)

Date of decision : 21.01.2016

Sukhjinder Kumar

....Petitioner

V/s

The State of Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: None for the petitioner.

Mr. Shilesh Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner Sukhjinder Kumar had been convicted by the Judicial Magistrate Ist Class, Dhuri under section 138 of the Negotiable Instrument Act and was sentenced to undergo imprisonment for one year and to pay fine of ₹500/- and in default thereof to further undergo simple imprisonment of 30 days. Petitioner preferred appeal before Sessions Judge, Sangrur which was dismissed vide judgment dated 17.02.2014. Feeling aggrieved against the judgments of both the courts below, petitioner has approached this court through the instant Criminal Revision.

Briefly, prosecution case runs thus:

On 07.10.2009, complainant filed a complaint under section 138 of the Negotiable Instrument Act, 1881 alleging that respondent took a loan of ₹50,000/- from him with the promise to return the same shortly. In order to discharge his liability, petitioner issued cheque bearing no. 448148 dated 28.10.2009 for ₹50,000/- drawn on Punjab National Bank, Loha Bazar, Branch

Dhuri favouring him. The cheque was presented for collection but was returned vide memorandum dated 29.10.2009 with the remarks 'insufficient funds'. Thereafter, notice envisaged by the Act was served upon the petitioner. On his failure to pay the amount in question, complaint under section 138 of the Act was instituted. After examining the complaint and preliminary evidence, the Magistrate found that complainant had been able to prove its case against petitioner beyond reasonable doubt. It, thus, summoned the petitioner vide order dated 15.01.2010 to face trial.

To substantiate its case against the accused, the prosecution examined as many as three witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, trial court came to the conclusion that ingredients of section 138 of the Negotiable Instruments Act are fulfilled and held petitioner guilty of the charge under section 138 of the Act and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the Sessions Judge, Sangrur on 17.02.2014.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has

also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below.

In any case petitioner has already completed his sentence on 23.12.2014 as depicted in affidavit of Hardeep Singh, Superintendent, District Jail, Sangrur filed by the State counsel today.

In view of above, there is no ground to interfere in revisional jurisdiction. Dismissed.

January 21, 2016

Ajay

(RAJAN GUPTA)
JUDGE