

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

Criminal Revision No.109 of 2015 (O&M)

Date of Decision: 30.05.2016

Narender Kumar

...Petitioner(s)

Versus

M/s Mahindra & Mahindra Financial Services Ltd.

...Respondent(s)

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. Shashikant Gupta, Advocate
for the petitioner.

Mr. Nitin Thatai, Advocate
for the respondent.

HARI PAL VERMA, J.

Petitioner - Narender Kumar has filed the present revision petition challenging the judgment dated 23.12.2014 passed by learned Additional Sessions Judge, Narnaul, whereby the appeal preferred by the him against the judgment of conviction and order of sentence dated 28.10.2010 passed by Additional Chief Judicial Magistrate, Narnaul has been dismissed.

Learned Magistrate had convicted the petitioner for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and vide separate order of even date, sentenced him to undergo rigorous imprisonment for a period of one year and to pay an amount of Rs.1,50,000/- to the complainant, as compensation.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the learned Courts below.

This Court while issuing notice of motion only *qua* the quantum of sentence had passed the following order on 14.1.2015:-

“Heard.

Learned counsel for the petitioner does not dispute the concurrent findings of Courts below. However, he prays for reduction of sentence.

Let notice of motion only qua the quantum of sentence for 03.03.2015.”

In view of the aforesaid order, learned counsel for the petitioner has fairly stated that he does not wish to challenge the impugned judgments on merits, rather prays that the sentence awarded to the petitioner be reduced to the period already undergone by him. Thus, learned counsel for the petitioner has confined his arguments with regard to quantum of sentence only.

Learned counsel for the petitioner stated that as against cheque amount of Rs.1,07,600/-, he has already paid an amount of Rs.1,50,000/- to the respondent-complainant. Similarly, against the awarded sentence of one year, he remained in custody for about 3 months. Therefore, he will be satisfied in case the sentence awarded to the petitioner is reduced to the period already undergone by him.

I have heard learned counsel for the parties and gone through the impugned judgments.

It is admitted case of the parties that as against the cheque amount of Rs.1,07,600/-, the respondent-complainant has already been paid an amount of Rs.1,50,000/- by way of demand draft. The sentence of the

petitioner has already been suspended by this Court. Moreover, considering the fact that the petitioner has suffered the agony of a protracted trial for the last about 12 years since the date of institution of the criminal complaint against him and as against the awarded sentence of one year, the petitioner has remained in custody for about 3 months, this Court feels that ends of justice would be met if the conviction of the petitioner is maintained and the sentence awarded to him is reduced to the period already undergone by him.

In view of the above, while taking into consideration the fact that the proceedings under Section 138 of the Act, though are criminal in nature, but have a civil liability as well, and keeping in view the limited prayer of learned counsel for the petitioner, this Court deems it appropriate to reduce the sentence awarded to the petitioner to the period already undergone by him.

Accordingly, the impugned judgments of conviction passed by the Courts below are upheld and the present revision petition is dismissed. However, the sentence awarded to the petitioner is reduced to the period already undergone by him. The impugned order of sentence shall stand modified to the aforesaid extent.

May 30, 2016
AK

(HARI PAL VERMA)
JUDGE