

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

(i)

CRR No.440 of 2013 (O&M)

Jagdeep Singh

...Petitioner

VERSUS

Gurjeet Kaur and another

...Respondents

(ii)

CRM No.M-13272 of 2015 (O&M)

Gurjeet Kaur

...Petitioner

VERSUS

State of Punjab and another

...Respondents

Date of Decision: September 05, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Munish Thakur, Advocate for
Mr.Pankaj Bhardwaj, Advocate
for the petitioner (in CRR No.440 of 2013).

Mr.Dhiraj Chawla, Advocate
for the petitioner (in CRM No.M-13272 of 2015) and
for respondent No.1 (in CRR No.440 of 2013).

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected cases as the point for determination in both the cases is the same.

CRR No.440 of 2013 has been filed by petitioner Jagdeep Singh under Section 401 Cr.P.C. against respondents Gurjeet Kaur and State of Punjab, challenging the judgment of conviction and order of sentence

vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹200/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 420 IPC and also challenging the judgment dated 09.01.2013 passed by learned Addl. Sessions Judge, Amritsar, vide which the appeal filed by the petitioner was dismissed.

CRM No.M-13272 of 2015 has been filed by the petitioner Gurjeet Kaur under Section 482 Cr.P.C. against respondents State of Punjab and Jagdeep Singh for quashing of judgment dated 09.01.2013 passed by learned Addl. Sessions Judge, Amritsar, vide which the revision petition filed by the petitioner for enhancement of the sentence of respondent No.2-accused was dismissed.

From the record, I find that a complaint was filed by complainant Gurjeet Kaur against Jagdeep Singh under Section 420 IPC read with Section 138 of the Negotiable Instruments Act. The brief facts of the complaint as noted down in the judgment passed by learned JMJC, Amritsar are as under:-

“2. Briefly the facts of the present case as alleged in the complaint are that the accused had borrowed a friendly loan of Rs.50,000/- from the complainant and in order to discharge his liability, the accused had issued a cheque bearing No.973324 dated 26.11.2002 of Punjab and Sind Bank, Branch Dhab Wasti Ram, Amritsar and the accused assured that there were sufficient funds to meet the cheque in question and the complainant accepted the cheque as per the assurance of the accused. That the complainant had presented the cheque in question through his banker i.e. Punjab national Bank, Majith Mandi, Amritsar and he was surprised to know that the cheque in question had been received back dishonoured with the remarks “No Such Account” vide memo dated 16.04.2003 issued by the bank of accused. It has been alleged that the complainant informed that the accused that the accused that this fact that there is no such account in the bank regarding cheque in question and the accused knowingly well issued the

cheque in question to play fraud upon the complainant. The complainant served a legal notice dt. 24.4.2003 to accused through registered AD post as well as UPC for clearing the dues accruing to this cheque in question vide regd. AD No.9271 dated 27.4.2003 and UPC dated 27.4.2003, the complainant has stated that the accused had issued such bogus and forged cheque knowing that there was no such account of the accused in the bank and prayed that legal action be taken against the accused. Hence, the present complaint."

Learned JMIC, Amritsar convicted and sentenced accused Jagdeep Singh vide judgment of conviction and order of sentence dated 28.02.2011 as stated above. An appeal was filed by accused against his conviction and a revision was filed by complainant for enhancement of the sentence imposed upon the accused and learned Addl. Sessions Judge, Amritsar, dismissed the appeal as well as the revision vide judgment dated 09.01.2013.

At the time of arguments, learned counsel for the revision petitioner has not disputed the findings regarding the conviction of the petitioner and only prayed for compounding of the sentence but learned counsel for the respondent-complainant did not agree to the compromise. So, without consent of the respondent-complainant, the offence cannot be compounded. Therefore, the CRM No.27702 of 2014 for compounding of the offence is dismissed.

Learned counsel for the revision petitioner, in the alternative, prayed for reduction of sentence. He contended that in the civil suit, the revision petitioner has already paid ₹50,000/-, which was the cheque amount and then ₹23,000/- more as interest was paid. Learned counsel for the respondent-complainant has not contested this fact. Learned counsel for the revision petitioner further contended that while suspending the sentence

of the revision petitioner in this case, the Court has also got deposited ₹30,000/-, which has already been paid to the respondent-complainant and learned counsel for the respondent-complainant has also admitted this fact that respondent-complainant has received ₹30,000/-.

Learned counsel for the revision petitioner argued that petitioner has no objection if the amount of ₹30,000/-, which was got deposited from him and has been paid to the respondent-complainant, be treated to be paid as compensation to the respondent-complainant. Learned counsel for revision petitioner further contended that petitioner Jagdeep Singh has already undergone more than three months of actual sentence.

I have learned counsel for the parties and have gone through the record.

Keeping in view the facts and circumstances that as per the facts, the dispute was only regarding the cheque of ₹50,000/- and the present revision petitioner has already paid more than double of the amount to the respondent-complainant in the civil proceedings and in these proceedings and further in view of the fact that revision petitioner is suffering from long protracted criminal trial for the last so many years and has undergone actual sentence of more than three months out of the total sentence, the sentence imposed upon the revision petitioner is reduced to the sentence already undergone by him and the amount of ₹30,000/- deposited in these proceedings, which has already been paid to the respondent-complainant, is granted as compensation to the respondent-complainant.

In view of the above discussion, the impugned judgments of conviction passed by the Courts below are upheld.

Therefore, CRR No.440 of 2013 stands partly allowed.

As regarding CRM No.M-13272 of 2015 filed by the complainant-petitioner for enhancement of the sentence imposed upon the accused, I find that the sentence of the accused has already been reduced, as stated above. The dispute was only of ₹50,000/-. In view of the fact that the Court below has awarded sentence of one year to the accused and more than double of cheque amount has been paid by the accused to the complainant which include the interest and compensation also, no ground is made for enhancement of the sentence.

Therefore, finding no merit in CRM No.M-13272 of 2015, the same is dismissed.

September 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No