

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

**CRR No.1536 of 2015
Date of Decision : 20.05.2016**

Narender

.....Petitioner

Versus

M/s Shri Ram Transport Finance Co.

.....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether reporters of local newspaper 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. Sunil Panwar, Advocate
for the petitioner.

None for the respondent.

FATEH DEEP SINGH, J.

M/s Shri Ram Transport Finance Company, (in short “the company”)-complainant preferred a complaint under Section 138 of the Negotiable Instruments Act, (in short “the Act”) against Narender Kumar-accused, now revisionist on the allegations that the accused had availed a loan for a sum of Rs.4,34,000/- for financing vehicle bearing Registration No.HR-55-D-0712 a truck. In lieu of this and in acknowledgment of the outstanding amount, the accused had issued

cheque bearing No.292068 dated 10th July, 2010 (Exhibit C-1) for this amount drawn on Vijaya Bank, Bahadurgarh as a discharge of this liability.

It is the allegations of the complainant that as per the assurance and representation of the accused they presented the cheque to the bankers ICICI Bank Limited, Rohtak for encashment but the same was returned back dishonored vide memo dated 30.07.2010 (Exhibit C-2) on account of insufficiency of funds. Legal Notice dated 28.08.2010 (Exhibit C-4) was served and after statutory period the complaint in question was filed. Upon preliminary evidence the accused was summoned. Upon completion of evidence the accused in his stand under Section 313 Cr.P.C. denied the allegations leading to his conviction vide judgment dated 30.07.2013 by the Court of Judicial Magistrate 1st Class Rohtak, whereby the petitioner was sentenced to undergo simple imprisonment for one year and to pay a compensation of Rs.5,50,000/- and in default of payment of this compensation to further undergo simple imprisonment for one year.

The same was challenged in an appeal which too stood dismissed vide judgment dated 06.10.2014 by the Court of learned Sessions Judge, Rohtak. It is subsequent thereupon the instant revision has come up.

Heard Sh. Sunil Panwar, learned counsel for the revisionist as none has put in appearance on behalf of the complainant/respondent inspite of due service.

The lone contention that has been put-forth by the revisionist's counsel is to the effect that the petitioner has already undergone the period of imprisonment as he was sent behind the bars on 06.10.2014 and after awarding of remissions, completes his sentence and even the sentence in lieu of the compensation has almost been completed and as he has undergone out of this more than 09 months and thus, prayed for compassion and leniency harbouring on the averments that the petitioner is a poor person who has lost his business and was unable to pay the amount and his entire family has been ruined and so by his detention has led to further complication for his wife and the children.

Having regard to these special circumstances as the petitioner has already undergone substantial incarceration of 01 year and 09 months out of 02 years and keeping in view the “Reformative Theory of Criminal Jurisprudence”, it will subserve the ends of justice as well as to ensure that the petitioner is not swayed by and must rejoin the mainstream of life after this imprisonment.

Furthermore, he has faced the trauma of trial and

conviction for six years. Thus, taking a lenient view, since the petitioner has already undergone the sentence of imprisonment of one year out of simple imprisonment of one year and for not making payment of the compensation having undergone more than nine months for that, the petition is disposed off holding that imprisonment in lieu of the compensation is reduced to already undergone. The impugned judgment is thus modified accordingly and the revision stands dismissed with this modification.

Records be sent back.

May 20, 2016

Dpr

(FATEH DEEP SINGH)
JUDGE