

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

1. (O&M)

Date of Decision:-16.02.2016

Subhash Mehra

...Petitioner

Versus

S.N. Suneja and another

...Respondents

2. CRR No. 1544 of 2015 (O&M)

Subhash Mehra

...Petitioner

Versus

S.N. Suneja and another

...Respondents

3. CRR No. 1545 of 2015 (O&M)

Subhash Mehra

...Petitioner

Versus

S.N. Suneja and another

...Respondents

4. CRR No. 1546 of 2015 (O&M)

Subhash Mehra

...Petitioner

Versus

S.N. Suneja and another

...Respondents

5. CRR No. 1547 of 2015 (O&M)

Subhash Mehra

...Petitioner

Versus

S.N. Suneja and another

...Respondents

6.

CRR No.1695 of 2015 (O&M)

Subhash Mehra

...Petitioner

Versus

S.N. Suneja 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. M.L. Saini, and Mr. Mukesh Rao, Advocates
for the petitioner(s).

Respondent No. 1 in person.

Mr. A.S. Sullar, Additional Public Prosecutor
for respondent No.2-U.T. Chandigarh.

HARI PAL VERMA, J. (Oral)

This order shall dispose of **CRR No. 1543 of 2015**
(*Subhash Mehra vs. S.N. Suneja and another*), **CRR No. 1544**
of 2015 (*Subhash Mehra vs. S.N. Suneja and another*), **CRR**
No. 1545 of 2015 (*Subhash Mehra vs. S.N. Suneja and*
another), **CRR No. 1546 of 2015** (*Subhash Mehra vs. S.N.*
Suneja and another), **CRR No. 1547 of 2015** (*Subhash Mehra*
vs. S.N. Suneja and another) **and CRR No. 1695 of 2015**
(*Subhash Mehra vs. S.N. Suneja and another*) as all these have
arisen out of same transaction and complaints filed under
Section 138 of the Negotiable Instruments Act, 1881
(hereinafter referred to be as “the Act”).

As dispute in all these petitions is between the
same parties, pertaining to same transactions, for the sake of

brevity, the facts are being taken from CRR No.1543 of 2015 titled as Subhash Mehra vs. S.N. Suneja and another.

Brief facts of the case are that S.N.Suneja-complainant/respondent No.1, retired from State Bank of India, Chandigarh as Branch Manager in the year 2006, after retirement started devoting his time towards religious sect in the name of Om Shanti, where accused-petitioner met him and was introduced as Doctor by the other followers. The petitioner-accused developed fiduciary relationship with the respondent-complainant during the passage of time and started borrowing money. The respondent-complainant has entrusted an amount of Rs.53,60,000/- to the petitioner-accused during the period between 2009 to 2011 against which petitioner-accused issued post-dated cheques as well as receipts in the presence of Smt. Raj Dulari, complainant's wife and one Sh. Anuj Suneja. The below mentioned cheques are the subject matter of dispute in the present petitions:-

<i>Case No.</i>	<i>Cheque Nos.</i>	<i>Dated</i>	<i>Amount</i>
<i>CRR-1543-2015</i>	<i>052010</i>	<i>06.08.2010</i>	<i>4,50,000.00</i>
<i>CRR-1544-2015</i>	<i>052020</i>	<i>03.09.2010</i>	<i>5,50,000.00</i>
	<i>052027</i>	<i>01.10.2010</i>	<i>3,50,000.00</i>
	<i>048544</i>	<i>20.10.2010</i>	<i>1,60,000.00</i>
<i>CRR-1545-2015</i>	<i>052036</i>	<i>24.12.2010</i>	<i>1,00,000.00</i>
	<i>052055</i>	<i>07.02.2011</i>	<i>5,00,000.00</i>
<i>CRR-1546-2015</i>	<i>052057</i>	<i>03.11.2010</i>	<i>5,00,000.00</i>
<i>CRR-1547-2015</i>	<i>048548</i>	<i>02.01.2011</i>	<i>5,00,000.00</i>
<i>CRR-1695-2015</i>	<i>052056</i>	<i>09.03.2011</i>	<i>5,00,000.00</i>

All the above mentioned cheques were drawn at Axis Bank Ltd. The respondent-complainant presented these cheques in the bank, however, were returned unpaid with the remarks “**funds insufficient**”. Thereafter respondent-complainant issued legal notice to the petitioner-accused however, he failed to discharge his liability. Hence, respondent-complainant filed complaints under section 138 of the Act before the court of Ld. Judicial Magistrate 1st Class, Chandigarh.

The learned Magistrate after appraisal of the evidence adduced, held the petitioner-accused guilty of offence u/s 138 of the Act in all the cases and sentenced him as under:-

Case No.	Simple Imprisonment	Fine (Rs.)	Compensation u/s 357(3) (equivalent to cheque amount)	In default
CRR-1543-2015	1 Year	-	4,50,000/-	-
CRR-1544-2015	1 Year	-	10,60,000/-	-
CRR-1545-2015	1 Year	-	6,00,000/-	-
CRR-1546-2015	1 Year	-	5,00,000/-	-
CRR-1547-2015	1 Year	-	5,00,000/-	-
CRR-1695-2015	3 months	5,000/-	5,00,000/-	S.I. 15 days

Against the above judgment passed by the learned Trial Court, the petitioner-accused as well respondent-complainant preferred appeals before learned Sessions Judge Chandigarh, however, in CRR No. 1543 of 2015, CRR No. 1544 of 2015, CRR No. 1545 of 2015 CRR No. 1546 of 2015 and CRR

No. 1547 of 2015, the appeals were dismissed vide judgment dated 12.09.2014. In CRR No. 1695 of 2015 the appeal preferred by the petitioner-accused was dismissed by the learned Sessions Judge Chandigarh vide judgment dated 24.02.2015, however, appeal preferred by the respondent-complainant was partly allowed and compensation of Rs.5,00,000/- awarded under section 357(3) was enhanced to Rs.7,50,000/-.

It is in the aforesaid circumstances, that the petitioner-accused filed the instant revisions petitions.

During the pendency of the revision petition, this court, in order to test the bonafide of the petitioner, granted interim bail to him vide order dated 03.07.2015. On 14.07.2015, the learned counsel for the petitioner submitted that after making his sincere efforts, petitioner could only arrange an amount of Rs.2 lacs. The order dated 14.07.2015 passed by this court reads as under:-

“Learned counsel for the petitioner submits that after making his sincere efforts, petitioner could arrange only an amount of Rs.2 lacs. He is ready to hand over Rs.2 lacs to complainant, who is present in the Court.

On the asking of the Court, respondent No.1-complainant submits that he is ready to accept the amount of Rs.2 lacs reserving his right for claiming the remaining amount from the petitioner. Accordingly, the amount of Rs.1 lacs by way of cheque No.000035 dated 14.07.2015 and Rs.1 lacs (in cash) has been handed over to the complainant-respondent No.1.

In view of the peculiar facts and circumstances of the case, the matter is referred to the Mediation and Conciliation Centre of this Court. Parties are directed to appear before the Mediation and Conciliation Centre on 30.07.2015 for exploring the possibility of an amicable settlement.

Interim order dated 03.07.2015, whereby petitioner was granted interim bail for two weeks, shall continue to operate.

A photocopy of this order be placed on the files of connected cases.”

However, matter could not be settled before the Mediation and Conciliation Centre and case was remitted back to this court with a request for extension of time since the stipulated period of 90 days was expired. On 10.12.2015, learned counsel for the petitioner sought some more time to settle the matter and this Court passed the following order:-

“Learned counsel for the petitioner submits that every possible effort is being made by the petitioner to pay the amount to the complainant respondent in addition to what has already been paid to him. However, he seeks some more time.

Let the Mediation and Conciliation Centre may make another effort to bring the parties at an amicable settlement.

Parties shall appear before the Mediation and Conciliation Centre on 23.12.2015 and petitioner shall pay at least an amount of Rs.50,000/- to the complainant-respondent No.1 on the said date, before the Mediation and Conciliation Centre.

A photocopy of this order be placed on the files of connected cases.”

Learned counsel for the petitioner contends that in pursuant to the order dated 10.12.2015, the parties have again appeared before the Mediation and Conciliation Centre of this Court, where a settlement has arrived at between the parties and as per the settlement, the petitioner has discharged his liability and paid the outstanding amount to the respondent No.1-complainant. As per the settlement, the parties have agreed that no further litigation will be initiated against each other in any Court in India in future. He also submits that as all the cases have been arisen out of the same transaction between the same parties, sentence awarded to the petitioner in all the complaint cases u/s 138 of the Act may be ordered to run concurrently. He further submits that he would be satisfied if sentence awarded to the petitioner is reduced to the period already undergone by him.

Respondents No.1, who is present in person does not dispute the factum of compromise/settlement arrived at between the parties.

Heard.

For concurrent running of sentences, petitioner has moved applications in all the petitions under section 427 Cr.P.C. read with Section 482 of the Cr.P.C. praying therein that the substantive sentence of simple imprisonment of one year awarded in Criminal Complaint No. 12184 of 18.4.2011; 11783 of 15.4.2011; 11784 of 18.4.2011; 11791 of 18.04.2011,

12021 of 18.4.2011 decided by the trial court on 22.05.2015 and sentence of simple imprisonment of three months in criminal complaint No. 32741 of 29.04.2011 decided on 21.04.2014 by ld. Trial Court be ordered to be run concurrently.

As all the aforesaid cases have been arisen out of the same transaction between the same parties, having recourse to the provisions of Section 427 of Cr.P.C., sentences awarded to the petitioner in all the cases are ordered to be run concurrently.

Admittedly, the matter has been compromises between the parties and the petitioner has discharged its liability.

In view of these facts and circumstances, 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 in all these petitions to the period already undergone by him.

Accordingly, the impugned judgments of conviction under challenge in **CRR No. 1543 of 2015** (*Subhash Mehra vs. S.N. Suneja and another*), **CRR No. 1544 of 2015** (*Subhash Mehra vs. S.N. Suneja and another*), **CRR No. 1545 of 2015** (*Subhash Mehra vs. S.N. Suneja and another*), **CRR No. 1546**

of 2015 (*Subhash Mehra vs. S.N. Suneja and another*), **CRR No. 1547 of 2015** (*Subhash Mehra vs. S.N. Suneja and another*) **and CRR No. 1695 of 2015** (*Subhash Mehra vs. S.N. Suneja and another*) passed by the 1d. Trial Court and affirmed/modified by the lower Appellate Court are upheld. However, the impugned order of sentence is modified to the aforesaid extent.

With aforesaid modification in the order of sentence, the all the revision petitions are dismissed.

February 16, 2016
VIJAY ASIJA

(HARI PAL VERMA)
JUDGE