

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR No.1904 of 2015 (O&M)

Date of decision: 07.04.2016

Satnam Singh

.....Petitioner

versus

Chanan Singh

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Dhiraj Mahajan, Advocate for the petitioner
Mr.Manvinder Singh Bal, Advocate for the respondent

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the judgment dated 4.4.2015, passed by learned Additional Sessions Judge(A), Gurdaspur, affirming the judgment of conviction and order of sentence dated 22.8.2013, passed by learned Judicial Magistrate 1st Class, Batala, vide which, the present petitioner was convicted under Section 138 Negotiable Instruments Act, 1881 and sentenced to undergo Rigorous Imprisonment for two year and also ordered to pay compensation to the tune of Rs.16,24,700/- to the complainant.

Suffice to say that the complainant and accused are closely related. The accused is none else than the brother-in-law of the complainant (wife's brother). According to the complainant, a friendly loan of Rs.10,55,000/- was taken for domestic and business

purposes. In lieu of which, a cheque No.579994 dated 5.6.2007 for Rs.10,55,000/- was issued. The cheque was subsequently dishonoured.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the petitioner contends that in this case, the complainant has not proved his financial capacity to pay the loan. No date and time of the loan is mentioned. No receipt was obtained from the accused for advancing the loan and that the loan was in cash and not reflected in the income tax return. Therefore, legally enforceable debt is not proved. Further, it was a time barred debt. Learned counsel for the petitioner further contends that the cheque in this case was stolen from his house.

From the perusal of the findings recorded by both the Courts below, it comes out that the accused is running a commission agent shop. Complainant is closely related to him and it is stated that small loans were advanced from time to time. Keeping in view the close relationship, the complainant is unlikely to keep the record of the date and time of advancing of each loan nor the same is likely to be reflected in the income tax returns. For the similar reasons, no receipt is taken. There is no proof that the cheque was stolen. No complaint was made to the bank that the cheque has been stolen. Therefore, the plea in this regard cannot be accepted at this stage. There are concurrent findings of two Courts below. There is no ground to interfere in the same.

Faced with these circumstances, learned counsel for the

petitioner has submitted that sentence of two years is quite harsh and prayed for reduction of the sentence. Loan of Rs.10,55,000/- has not been returned so far nor compensation has been paid. It is stated that the petitioner is 60 years of age. Therefore, keeping in view the relationship between the parties and facts and circumstances, there is some scope for reduction in substantive sentence. Accordingly, substantive sentence of Rigorous Imprisonment for two years is reduced from two years to one year. Remaining part of the sentence is kept intact.

With the above modification, the revision stands dismissed.

CRM No.7204 of 2016

Since the conviction is in two separate cases regarding the money taken from two different persons though brothers, there is no ground to order concurrent running of the sentences.

The application is dismissed.

07.04.2016
gk

(Kuldip Singh)
Judge