

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

CRR No.1072 of 2016 (O&M)
Date of Decision: September 01, 2016

Ranjodh Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Shubhashish Kukreti, Advocate
for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Arvind Rajotia, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Ranjodh Singh against respondents State of Punjab and Paramjit Singh, challenging the impugned judgment of conviction and order of sentence dated 04.03.2015 passed by learned Judicial Magistrate Ist Class, Patiala, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay compensation equivalent to half of the cheque amount under Section 138 of the Negotiable Instruments Act and also challenging the judgment dated 07.12.2015 passed by learned Addl. Sessions Judge, Patiala, vide which appeal filed by

petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

From the record, I find that a complaint was filed by the complainant Paramjit Singh against accused Ranjodh Singh under Section 138 of the Negotiable Instruments Act. The brief facts of the complaint as noted down in the judgment passed by learned JMIC, Patiala, are as under:-

“2. Brief facts as averred in the complaint are that accused is the family friend of the complainant and both of them have been helping each other at the time of need. Accused approached the complainant in October 2011 for a friendly loan of Rs.5,00,000/- as the accused was in great need at that time. Accused assured the complainant that accused will repay the same within one month i.e on or before 20.11.2011. Complainant agreed to advance a friendly loan of Rs.5,00,000/-without interest to the accused. Accused received Rs.3,00,000/- from the complainant through cheque no. 20407 dated 20.10.2011 drawn on Punjab & Sind Bank, Branch Bhunerheri and Rs.2,00,000/- through cheque no. 20408 dated 22.10.2011, thereby accused have received Rs.5,00,000/- from the complainant. As per assurance, the accused did not turn up to repay the said amount of Rs.5,00,000/- till 20.11.2011. Therefore, complainant visited the house of accused and accused told the complainant that he was not having hard cash of Rs.5,00,000/- and therefore he issued a cheque bearing no. 768626 amounting to Rs.5,00,000/-dated 23.11.2011 drawn on Oriental Bank of Commerce, Branch The Mall, Patiala in favour of the complainant to discharge his liability towards the complainant which he owed through two cheques dated 20.10.2011 and 22.10.2011 amounting to Rs.5,00,000/-. Accused signed the said cheque in the presence of complainant and issued at his house. As per the assurance, complainant presented the said cheque for clearance but it was returned unpaid by the banker of accused vide memo dated 24.11.2011 with the remarks 'Insufficient Funds'. Thereafter through legal notice dated 26.11.2011 sent through registered A.D, accused

was called upon make the payment within the prescribed period of 15 days from the receipt of notice but accused failed to pay the same. Hence, the present complaint. ”

Learned JMIC, Patiala, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Patiala, vide judgment dated 07.12.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family. He further contended that petitioner is suffering from the criminal proceedings since 2012.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 4 years and he is first offender and only bread earner of the family and in view of the fact that petitioner has already undergone actual sentence of 10 months and 4 days including remission of 28 days, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him.

Therefore, the present revision petition stands partly allowed.

Petitioner Ranjodh Singh, who is in custody, be set as liberty forthwith, if his custody is not required in connection with any other case.

However, if the compensation has not been paid and if any

application is filed by complainant-respondent No.2 for recovery of the compensation, the trial Court may proceed further as per law.

September 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No