

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

**Criminal Revision No.1318 of 2016 (O&M)
Date of Decision : 21st October, 2016**

Shiv Khurana

..... Petitioner

Versus

Panipat Hire Purchase and Leasing Pvt. Ltd.

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Raj Kumar Rana, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

The petitioner has preferred the instant petition against the order dated 23.12.2015, passed by the learned Addl. Sessions Judge, Chandigarh, enhancing the fine.

The petitioner had been convicted under Section 138 of the Negotiable Instruments Act for dishonour of cheque of Rs.65,000/- and sentenced to imprisonment till the rising of the Court and to pay a fine of Rs.5,000/- vide judgment dated 18.07.2014, passed by the learned Judicial Magistrate Ist Class, Chandigarh. Against the said judgment of conviction and order of sentence, the complainant preferred a revision petition, claiming that the fine which had been imposed was not commensurate with the amount of cheque. The Revisional Court, considering all the facts and the amount of cheque of Rs.65,000/- in the year 2010, increased the fine to Rs.1,00,000/-.

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Learned counsel for the petitioner has placed reliance on the judgment of this Court in **Balbir Singh versus Raj Krishan 2015 ALL MR (Cri) 315** where this Court set aside the conviction on various grounds including the fact that the petitioner in that case was an illiterate agriculturist and the complainant was a commission agent and he had not been able to prove the loan and the fact that there was credible evidence to believe that the cheque was a blank security cheque. One of the ground taken by the Court was also that the complainant was stated to be a money lender but he did not have a licence. In the present case, there is no such averment that the petitioner was an illiterate agriculturist and the complainant was his commission agent. Therefore, the said judgment, having distinguished facts, will not apply in the instant case.

For the aforesaid discussion, I do not find any merit in the instant petition and the same is dismissed.

(AJAY TEWARI)
JUDGE

21st October, 2016

mamta

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No