

CRR No.2037 of 2016
CRR No.2038 of 2016

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

CRR No.2037 of 2016
Date of Decision: 26.09.2016

Tirath Singh

.....Petitioner

Vs.

Happy Singh

.....Respondent

CRR No.2038 of 2016
Date of Decision: 26.09.2016

Tirath Singh

.....Petitioner

Vs.

Hardeep Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Deepak Aggarwal, Advocate, for the petitioner.

Mr.Naresh Jain, Advocate, for the respondent.

RITU BAHRI, J. (ORAL)

The petitioner has been convicted vide judgment dated 01.04.2016 passed by the Court of learned Additional Sessions Judge, Sri Muktsar Sahib in two complaints for a period of one year alongwith fine of Rs.5,000/-

The first complaint has been filed against the petitioner on account of dishonouring of cheque amounting to Rs.4,00,000/- which was issued upon discharge of legal entity. As per allegations in the complaint, the accused/petitioner borrowed an amount of Rs.4,00,000/- on 13.03.2013 from the respondent-Happy Singh. The accused/petitioner had promised to repay

the principal amount on demand of the said amount. It was further alleged that to make the payment of the abovesaid amount of Rs.4,00,000/-, the accused on dated 13.03.2013, issued a cheque No.252070 in favour of the respondent to be drawn on Punjab and Sind bank, Branch, Gidderbaha, out of his account No.11687, but when presented in the bank, the same were returned unpaid with the remarks "fund insufficient" vide memo dated 30.03.2013. Thereafter, again the cheque was presented for incashment but the said cheque was again dishonoured. The respondent through his counsel, got issued one registered A.D. notice dated 28.05.2013 to the petitioner but he failed to make the payment. On the basis of the same, petitioner was summoned by the trial Court to face trial under Section 138 of the N.I. Act. In order to prove the said offence, the respondent-Happy Singh himself appeared as CW1 and tendered his duly sworn affidavits Ex.CW1/A.

The second complaint has been filed against the petitioner on account of dishonouring of cheque amounting to Rs.2,50,000/- which was issued upon discharge of legal entity. As per allegations in the complaint, the accused borrowed an amount of Rs.2,50,000/- on 18.03.2012 from the respondent-Hardeep Singh on interest at the rate of 2% per month. In lieu of the said case consideration, the accused executed one pronote and receipt dated 18.03.2012 in favour of the respondent. The accused/petitioner had promised to repay the principal amount alongwith interest on demand of the respondent. It was further alleged that to make the payment of the abovesaid amount of Rs.2,50,000/-, the accused on dated 21.03.2013, issued four cheques No.252073 amount to Rs.50,000/-, cheque No.252075 amounting to Rs.50,000/-, cheque No.252076 amounting to Rs.50,000/- and cheque

No.252077 amounting to Rs.1,00,000/-, respectively in favour of the respondent to be drawn on Punjab and Sind bank, Branch, Gidderbaha, out of his account No.11687, but when presented in the bank, the same were returned unpaid with the remarks “fund insufficient” vide memo dated 28.03.2013. The respondent through his counsel, got issued one registered A.D. Notice dated 20.04.2013 to the petitioner but he failed to make the payment. On the basis of the same, petitioner was summoned by the trial Court to face trial under Section 138 of the N.I.Act. In order to prove the said offence, the respondent-Hardeep Singh himself appeared as CW1 and tendered his duly sworn affidavits Ex.CW1/A.

The trial Court convicted the petitioner and his conviction has been upheld by the revisional Court.

Learned counsel for the petitioner is not challenging the conviction on merits and only restricts his prayer that the conviction in both the cases should run concurrently. He has referred to the judgment passed by the Co-ordinate Bench in case **Brahmjit Vs. State of Punjab and another in CRR No.3953 and 3978 of 2012 , 2014(3), LAR 374,** whereby, accused convicted in two separate cases under Section 138 of Negotiable Instruments Act and sentenced to one year RI in each case but sentences in both cases were ordered to run currently. This case is squarely covered by the said judgment.

Taking into consideration the entirety of facts and circumstances of the instant case, both the revision petitions are dismissed, but the sentences passed in Criminal complaint No.RT-99 of 12.07.2013vc decided on 16.04.2015, by JMIC, Sri Muktsar Sahib titled as “Happy Singh

Vs. Tirath Singh and Criminal complaint No.27 of 31.05.2013 decided on 16.04.2015, by JMIC, Sri Muktsar Sahib titled as “Hardeep Singh Vs. Tirath Singh, are ordered to run concurrently. The period already undergone will be set off against the sentence awarded. However, the fine imposed by the trial Court and its default clause are maintained in both the cases.

(RITU BAHRI)
JUDGE

26.09.2016
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>