

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

CRR No.2164 of 2016 (O&M)

Date of Decision: September 01, 2016

Geeta Rani

...Petitioner

VERSUS

Sanjeev Kumar

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Shyam Singh Chhokar, Advocate
for the petitioner.

None for the respondent.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Geeta Rani against respondent Sanjeev Kumar, challenging the impugned judgment of conviction and order of sentence dated 20.02.2016 passed by learned Judicial Magistrate Ist Class, Kurukshetra, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of two months under Section 138 of the Negotiable Instruments Act and to pay compensation of ₹25,000/- to the complainant within a period of two months and also challenging the judgment dated 27.05.2016 passed by learned Addl. Sessions Judge, Kurukshetra, vide which appeal filed by petitioner was dismissed being not maintainable.

Notice of motion was issued but none appeared on behalf of the

The brief facts of the case as noted down in the judgment passed by learned JMIC, Kurukshetra, are as under:-

“The present complaint has been filed by the complainant against the accused for the commission of offence punishable under section 138/142 of the Negotiable Instruments Act, 1881 (hereinafter referred to “ the Act”) on the allegations that accused had borrowed a sum of Rs.50,000/- from the complainant and had assured that the said amount shall be repaid within one month but the accused did not return the said amount rather accused had issued a cheque bearing No.377605 dated 04.07.2013, for a sum of ₹50,000/- drawn on State Bank of India, HUDA Complex, SCO No.5, Sector 8, Karnal of her account in favour of the complainant for discharge of legal and lawful liability. The complainant then presented the said cheque in his account with his bank i.e. Punjab National Bank, Pipli, Kurukshetra but the said cheque was dishonoured by the banker with remarks “funds insufficient” vide memo dated 22.08.2013. Thereafter, the complainant contacted the accused many times and requested her to make the payment but the accused did not make the payment. The complainant had also served a legal notice on 18.09.2013 upon the accused but the accused has failed to make the payment. Hence the present complaint.”

Learned JMIC, Kurukshetra, 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, Kurukshetra being not maintainable vide judgment dated 27.05.2016.

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

At the time of arguments, 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. Learned counsel for the petitioner argued that petitioner is a lady, first offender and she is suffering from the criminal proceedings since 2013 and

she has already undergone actual sentence of more than 1 month. Learned counsel for the petitioner further contended that a compromise has been effected between the petitioner and the respondent and the petitioner has already paid the compensation of ₹25,000/- to the complainant-respondent.

I have heard learned counsel for the petitioner and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the compromise and further in view of the fact that petitioner is facing criminal proceedings since 2013 i.e. for the last about three years and is first offender and also in view of the fact that petitioner has already undergone actual sentence of more than 1 month out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by her.

Therefore, the present revision petition stands partly allowed.

Since, petitioner Geeta Rani, is on bail, her bail/surety bonds stand discharged.

However, if the compensation has not been paid and if any application is filed by the respondent 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