

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

(1) CRR No.347 of 2015 (O&M).
Decided on:-30.11.2016.

Harjit Singh.

.....Petitioner.

Versus

Iqbal Singh and another

.....Respondents.

(2) CRR No.367 of 2015 (O&M).

Harjit Singh.

.....Petitioner.

Versus

Iqbal Singh and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

Ms. Rajni Maurya, Advocate for
Mr. Naveen Batra, Advocate
for respondent No.1-complainant.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J.

The aforementioned two revision petitions are being decided by way of common order as the controversy involved in these petitions is similar in nature and the dispute has arisen between the same parties. However, for convenience, the detailed order is being passed in ***CRR No.347 of 2015.***

The petitioner has filed the present petitions against the judgments dated 18.11.2014 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur vide which his appeals filed against the judgments of conviction and orders of sentence dated 25.3.2013 passed by learned Judicial Magistrate 1st Class, Hoshiarpur, were dismissed.

Briefly stated, the facts of the cases are that the respondent No.1-complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) alleging therein that the petitioner-accused in discharge of his legal liability issued two cheques bearing No.055521 and 055522 dated 10.12.2006 in the sum of Rs.1,00,000/- and Rs.40,000/- respectively drawn on Syndicate Bank, Jalandhar in favour of the respondent No.1-complainant. However, on presentation, the said cheques were dishonoured by the bank and were returned to the complainant along with memos with the remarks "Insufficient Funds". Thereafter, legal notices were issued by the respondent-complainant to the petitioner-accused but he failed to make the payment of cheques. As such, two complaints were filed against him by respondent No.1-complainant.

Learned Magistrate vide judgments dated 25.3.2013 convicted the petitioner for offence punishable under Section 138 of the Act and vide separate orders of same date, sentenced him to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.2,000/- and in default of payment of fine, to further undergo RI for twenty days in each case.

Feeling aggrieved, the petitioner filed appeals before the Court of Session, but the same were also dismissed by learned Additional Sessions Judge, (Adhoc), Fast Track Court, Hoshiarpur vide judgments dated 18.11.2014.

It is in these circumstances, the present revision petitions have been filed by the petitioner-accused.

At the outset, learned counsel for the petitioner has not challenged the conviction of petitioner in both the cases and has confined his arguments qua the quantum of sentence only. He has contended that as against the awarded sentence of one year, the petitioner has remained in custody from 18.11.2014 to 27.2.2015.

He has further contended that during the pendency of these petitions, the matter has also been compromised between the parties and the petitioner has paid 50% of the amount of both cheques i.e. Rs.1,40,000/- to the complainant, whereas the remaining 50% amount has been deposited by the petitioner with the trial Court, which has also been paid to the complainant in terms of order dated 7.12.2015 of this Court. He has prayed that sentence of the petitioner may be reduced to the period already undergone by him.

Learned counsel for the respondent No.1-complainant has not disputed the factum of compromise between the parties and has stated that the complainant has received the amount of both the cheques i.e. Rs.1,40,000/-.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Section 138 of the Act. The appellate Court has also rightly dismissed the appeals. There is no illegality, infirmity or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and restricted his arguments qua the quantum of sentence only. The conviction of the petitioner in both the cases is, therefore, affirmed.

However, in view of the fact that the matter has been compromised between the parties and as per custody certificate placed on record, the petitioner has remained in custody from 18.11.2014 to 27.2.2015 and while taking into consideration the fact that the proceedings under Section 138 of the Act, though are criminal in nature but have a civil liability as well, this Court deems it appropriate to reduce the sentence awarded to the petitioner to the period already undergone by him.

Accordingly, the impugned judgments of conviction dated 25.3.2013 passed by learned Magistrate and affirmed by the lower appellate Court vide judgments dated 18.11.2014 in both the cases are upheld. However, the impugned orders of sentence are modified to the extent that the sentence awarded to the petitioner is reduced to the period already

undergone by him.

It is made clear that the sentence qua fine imposed upon the petitioner in both the cases shall remain intact.

With aforesaid modification in the orders of sentence, the instant revision petitions stand dismissed.

November 30, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No