

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 228

Criminal Revision No.4108 of 2015 (O & M)

Date of Decision: May 10, 2016

Harpal Singh

..... PETITIONER

VERSUS

Dara Singh & another

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. L.S. Sidhu, Advocate, for the petitioner.

None for respondent No.1.

Mr. Arshdeep Singh Kler, Deputy Advocate General, Punjab,
for respondent No.2 – State.

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Jaspal Singh, J

1. The instant revision has been preferred by Harpal Singh challenging judgment dated August 20, 2015 passed by the lower appellate court whereby judgment of conviction and order of sentence dated September 26, 2014 passed by the trial court, in complaint No.395-2 dated September 26, 2007 under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 (for short, 'Act'), has been upheld, vide which, the accused – petitioner has been held guilty under Section 138 of the Act and sentenced to undergo RI for a period of

one year besides fine to the tune of ₹ 2,000/-, and in default of payment of fine, to further undergo rigorous imprisonment for two months.

2. While issuing notice of motion on October 29, 2015, this Court passed the following order:-

“Learned counsel states that he would not press this petition on merits but there may be some scope for reduction of the sentence.

None of motion for 11.01.2016.

In the meantime, the respondent No.2-State is directed to place on record the custody certificate.”

4. A glance at the aforesaid order reveals that notice was issued only qua quantum of sentence. This court has also scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in the impugned judgment(s) as far as the conviction of petitioner under Section 138 of the Act is concerned. As such, the conviction of petitioner is upheld.

5. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and upheld by the lower appellate court. Apart from the fact that petitioner is facing the agony of protracted trial for the last more than 8 years after filing of the instant complaint, he is the only bread winner in the family and a source for livelihood for his old aged parents. Accused – petitioner is first offender. There is no other case of similar nature, either pending or disposed of, against the petitioner. Moreover, the petitioner has already suffered incarceration for a period of almost 9 months, as on today, as is evident from custody certificate dated April 26, 2016. Thus, this court is of the considered view that a chance be given to the petitioner to reform & improve himself; to become a good citizen; and to lead a peaceful & harmonious life.

6. Taking into consideration the aforesaid aspects of the case, though, conviction of the petitioner is upheld but the sentence imposed him by the courts below is reduced to the period already undergone by him, with no change in fine clause.

7. With the above modification in sentence, revision petition stands dismissed.

May 10, 2016
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(Jaspal Singh)
Judge