

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 231

Criminal Revision No.4168 of 2015 (O & M)

Date of Decision: May 10, 2016

Sham Lal

..... PETITIONER

VERSUS

State of Punjab & 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. Jitender Singh Dadwal, Advocate, for the petitioner.

Mr. Arshdeep Singh Kler, Deputy Advocate General, Punjab,
for respondent No.1 – State.

None for respondent No.2.

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Jaspal Singh, J

1. The instant revision has been preferred by Sham Lal challenging judgment dated October 17, 2015 passed by the lower appellate court whereby judgment of conviction and order of sentence dated August 05, 2013 passed by the trial court, in complaint dated August 10, 2011 under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'Act'), has been upheld, vide which, the accused – petitioner has been held guilty under the aforesaid offence and sentenced to undergo simple imprisonment for a period of one year besides fine to

the tune of ₹ 3,000/-, and in default of payment of fine, to further undergo imprisonment for one month.

2. While issuing notice of motion on January 05, 2016, this Court passed the following order:-

“Challenge in this criminal revision petition is to the judgment dated 17.10.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 138 of the Negotiable Instrument Act recorded by learned Judicial Magistrate Ist Class, Ludhiana, was dismissed.

At the very outset, learned counsel for the petitioner contends that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner. However, he submits that in view of the circumstances of the case, the sentence awarded by the Courts below is on higher side.

Notice of motion for 11.02.2016 with regard to quantum of sentence only.”

3. 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 Sections 138 of the Act is concerned. As such, the conviction of petitioner is upheld.

3. 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 4 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 7 months, as on today, as is evident from custody certificate dated

February 11, 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.

4. 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.

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

May 10, 2016
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(Jaspal Singh)
Judge