

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

CRR No.385 of 2016 (O&M).

Decided on:-01.02.2016.

Kavinder Singh.

.....Petitioner.

Versus

Dinesh Kumar.

.....Respondent.

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

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

Present:- Mr. Rakesh Dhiman, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgment dated 26.2.2015 whereby learned Judicial Magistrate 1st Class, Gurgaon convicted him for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) and vide separate order dated 27.2.2015, sentenced him to undergo simple imprisonment for three months and to pay a sum of ₹ 3,80,000/- to the complainant as compensation.

The petitioner preferred an appeal before learned Additional Sessions Judge, Gurgaon, but the same was also dismissed vide judgment dated 14.1.2016.

Learned counsel for the petitioner contends that after dismissal of the appeal, the matter has been compromised between the parties. In support of his contention, he has relied upon affidavit as well as compromise dated 30.1.2016 executed by respondent-complainant Dinesh Kumar son of Tek Chand, resident of A-162, Rajendra Park, Gurgaon. The affidavit and compromise are taken on record.

Learned counsel for the petitioner further contends that against the awarded sentence of three months, the petitioner is in custody since 14.1.2016 and he would be satisfied in case the sentence awarded to the petitioner is reduced to the period already undergone by him.

Notice of motion limited to the aforesaid extent only.

At this stage, Mr. Virender Soni, Advocate puts in appearance and accepts notice on behalf of the respondent-complainant. The power of attorney filed on behalf of the respondent in Court today is taken on record. Learned counsel for the respondent also accepts the factum of compromise entered into between. He further contends that he has no objection in case the sentence awarded to the petitioner is reduced to the period already undergone by him.

I have heard learned counsel for the parties.

Admittedly, the matter has been compromised between the parties by way of affidavit and compromise dated 30.1.2016 executed by respondent-complainant Dinesh Kumar. The relevant paras No.2 and 3 of

said affidavit read as under:

“2. I say that I have amicably compromised all my disputes with the petitioner who has already paid back the whole amount and now nothing is remain pending.

3. I say that pursuant to the amicable settlement, now I have no grievance whatsoever against Kavinder Singh and I have no objection if he be released or acquitted from the charges.”

In view of these facts and circumstances, 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, and keeping in view the limited prayer of learned counsel for the petitioner, this Court deems it appropriate to reduce the sentence awarded to the petitioner to the period already undergone by him.

Accordingly, the impugned judgment of conviction dated 26.2.2015 passed by learned Magistrate and affirmed by the lower appellate Court are upheld. However, the impugned order of sentence is modified to the aforesaid extent. The petitioner is ordered to be released forthwith, if not required in any other case.

With aforesaid modification in the order of sentence, the instant revision petition stands dismissed.

February 01, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE