

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

(1)

CRR No.592 of 2016 (O&M)

Sohan Lal

...Petitioner

VERSUS

Lakhwinder Singh

...Respondent

(2)

CRR No.594 of 2016 (O&M)

Sohan Lal

...Petitioner

VERSUS

Lakhwinder Singh

...Respondent

Date of Decision:-May 30, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.S.Miglani, Advocate
for the petitioner.

Mr.Sanjeev Kumar Bawa, Advocate
for the respondent.

INDERJIT SINGH, J.

Both the cases are taken up together as the point for determination in these cases is the same.

Above-said revisions have been filed by the petitioner under Section 401 Cr.P.C. against the accused-respondent challenging the judgments of conviction and orders of sentence dated 05.12.2014 passed by learned Sub Divisional Judicial Magistrate, Phillaur in complaints No.42/2

and 43/2 of 2006, whereby the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹2000/- and in default of payment of fine, to further undergo rigor imprisonment for a period of 10 days in each complaint under Section 138 of the Negotiable Instruments Act and also challenging the impugned judgments dated 11.01.2016 passed by learned Addl. Sessions Judge, Jalandhar, whereby the appeals filed by the accused-petitioner were dismissed.

The brief facts are that complainant Lakhwinder Singh filed two complaints against accused Sohan Lal under Section 138 of the Negotiable Instruments Act. In complaint No.42/2 of 2006, the accused issued two cheques bearing No.571104 dated 13.11.2005 and 571102 dated 12.12.2005 for a sum of ₹1 lac each and in complaint No.43/2 of 2006, the accused issued cheque bearing No.571103 dated 12.11.2005 for a sum of ₹1 lac. When all the cheques were presented for encashment, the same were returned unpaid with the remarks 'insufficient funds'. Legal notice served upon the accused. When the amount was not paid, then the complaints were filed.

At the time of preliminary hearing, 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.

Notice of motion was issued only qua quantum of sentence in both the cases. Learned counsel for respondent appeared and contested the petitions.

It is argued that the revision petitioner is a poor person and only bread earner of the family. Learned counsel for the petitioner further argued

that the petitioner tried his level best to return the cheque amount and he could only collect ₹1 lac, which he has brought in the Court today for payment to the respondent but learned counsel for the respondent refused to take that amount.

The petitioner is in custody since the decision of the appeal on 11.01.2016 i.e. for the last about 4½ months. The petitioner is suffering from long protracted criminal proceedings since 2006 and further the intention of the petitioner looks bonafide as he tried to pay ₹1 lac in lumpsum to the respondent qua both the cases before this Court but learned counsel for the respondent refused to accept the same. The petitioner has already undergone actual sentence of 4½ months and he is stated to be old man of 60 years of age.

Keeping in view the above facts and circumstances, the sentence imposed upon the petitioner in both the complaints is reduced and he is directed to undergo rigorous imprisonment for a period of seven months instead of one year. However, the sentence of fine and default thereof, shall remain the same.

With the above-said modification in the sentence, both the revision petitions stand dismissed.

As regarding CRM No.15450 of 2016 in CRR No.594 of 2016 filed under Section 482 read with 497 Cr.P.C. for ordering the sentences to run concurrently in the above-mentioned cases, is allowed. The sentences awarded in complaints No.42/2 of 2006 and 43/2 of 2006, as modified above in CRR Nos.592 and 594 of 2016, are hereby ordered to run concurrently.

May 30, 2016

Vgulati

VINEET GULATI
2016.06.03 14:13
I attest to the accuracy and
authenticity of this document
Chandigarh

**(INDERJIT SINGH)
JUDGE**