

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-992-2016 (O & M)
Date of decision:08.04.2016

Subhash Thakur ...Petitioner(s)

Versus

State of Haryana and anr. ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arvind Singh, Advocate,
for the petitioner(s).

Mr. Arun Luthra, AAG, Haryana.

Rajan Gupta, J. (oral)

The petitioner Subhash Thakur has been convicted by Judicial Magistrate Ist Class, Faridabad, under Section 138 of Negotiable Instruments Act. He preferred an appeal against the conviction/sentence order dated 7th November 2013. The Sessions Judge, Faridabad, after appraising the evidence, upheld the conviction and sentence awarded to the petitioner by passing a judgment dated 14th October, 2015. The instant Criminal Revision petition has been preferred to set-aside the judgment dated October 14, 2015, passed by Sessions Judge, Faridabad and judgment/order dated 07.11.2013 and 08.11.2013, passed by Judicial Magistrate Ist Class, Faridabad.

Learned counsel for the petitioner states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction.

I have heard learned counsel for the petitioners.

Briefly, the facts of the case are that accused-Subhash Thakur, petitioner herein, had issued a cheque bearing No.834992 dated 7.7.2012 for an amount of Rs.90,000/- drawn on Bank of Maharashtra Branch, NIT, Faridabad, in favour of the complainant. The said cheque was dishonoured with the remarks "*Funds Insufficient*" when it was presented in the bank. The petitioner did not make payment of the said amount and as such, a complaint was filed in the Court.

To substantiate its case, the complainant himself appeared in the witness box and tendered documents Ex. C-1 to Ex. C-4 and closed evidence.

The statements of the accused under Section 313 Cr.P.C. was recorded, wherein the incriminating evidence available on record was put to them. He denied the same and pleaded innocence.

On the basis of the evidence on record, the learned trial court came to the conclusion that the petitioner was guilty of the offence punishable under Section 138 of the Negotiable Instrument Act. Accordingly, the petitioner was sentenced to undergo rigorous imprisonment for one year and to pay compensation of Rs.1,10,000/- to the complainant within one month and in default of which, to undergo simple imprisonment for a period of three months.

On a perusal of the judgments, I am of the considered view that the courts below have correctly arrived at a conclusion that the petitioner was guilty of the offence alleged against him. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner during the course of arguments, has not assailed the judgment of conviction. He has however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a first offender, has four children and old aged mother to lookafter. He is the only bread earner of his family and has already faced the agony of protracted trial for a number of years. Out of his substantive sentence of 01 year, the petitioner has already undergone more than 07 months including remission.

Keeping in view facts and circumstances of the case as also the fact that the petitioner is a first offender, sentence awarded to the petitioner is reduced to nine months. However, fine imposed, shall remain intact.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

08.04.2016
sukhpreet

(RAJAN GUPTA)
JUDGE