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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : 26th OCTOBER, 2016

+ **CRL.REV.P.30/2016**

SURINDER KUMAR GROVER Petitioner

Through : Mr.Kumar Vaibhav, Advocate with
Mohd.Faraz, Advocate.

versus

ANIL KUMAR Respondent

Through : None.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

CRL.M.A.No.673/2016 (Delay)

1. For the reasons mentioned in the application for condonation of delay in filing the revision petition, the delay is condoned.
2. The application for condonation of delay is disposed of.

CRL.REV.P.30/2016, CRL.M.A.No.14220/2016 & CRL.M.B. 86/2016

1. Present revision petition has been preferred by the petitioner to challenge the legality and correctness of a judgment dated 15.09.2015 of learned Addl. Sessions Judge in Crl.A.No.14/2015 whereby judgment dated 08.05.2015 and sentence order dated 22.05.2015 of learned CMM under Section 138 Negotiable Instruments Act were upheld. The petitioner was sentenced to undergo SI for one year with compensation ₹7 lacs to be paid to the complainant; default sentence being SI for one year.

2. During the course of arguments, petitioner's counsel, on instructions, informed that the petitioner has opted to give up challenge to the findings on conviction under Section 138 Negotiable Instruments Act. He, however, prayed to take lenient view as the petitioner has already undergone substantial period of substantive and default sentences.
3. None appeared on behalf of the respondent despite service.
4. Since the petitioner has given up challenge to the findings on conviction and there are concurrent findings of the two Courts below, conviction under Section 138 Negotiable Instruments Act is affirmed.
5. Nominal Roll dated 12.08.2016 reveals that the petitioner has undergone 11 months and 3 days incarceration besides remission for 27 days as on 20.04.2016. It further records that the substantive sentence of the petitioner was completed on 20.04.2016. At present, the petitioner was undergoing default sentence for non-payment of ₹7 lacs.
6. Default sentence awarded by the Trial Court for non-payment of compensation of ₹7 lacs is one year which is quite excessive. Considering the facts and circumstances of the case, while maintaining the conviction, sentence order is modified to the extent that the default sentence for non-payment of compensation of ₹7 lacs shall be six months instead of one year. Other terms and conditions of the sentence order are left undisturbed.
7. The revision petition stands disposed of in the above terms. Pending applications also stand disposed of.
8. The petitioner shall be released forthwith if not required to be detained in any other case.

9. Trial Court record (if any) be sent back forthwith with the copy of the order.
10. Intimation be sent to the Superintendent Jail.

(S.P.GARG)
JUDGE

OCTOBER 26, 2016 / tr

