

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

Crl. Revision 381 of 2007
Date of Decision : April 18, 2017

Prem Nath Gupta

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Ripudaman Singh, Advocate for
Mr. S.P.S.Sidhu, Advocate
for the petitioner.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab
for respondent No.1-State.

Mr. P.L.Singla, Advocate
for respondent No.2.

T.P.S. MANN, J. (Oral)

The petitioner was tried for the offence under Section 138 of the Negotiable Instruments Act as the cheque issued by him in favour of complainant Raghu Nandan Gupta for a sum of Rs. 1,01,112.09 Ps was dishonoured with the remarks “exceed arrangements/insufficient funds”. Vide judgment and order dated 19.1.2006, learned Judicial Magistrate 1st Class, Ferozepur convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.

Aggrieved by his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 19.2.2007, learned Sessions Judge, Ferozepur while holding that the trial Court had rightly convicted and sentenced him, dismissed the appeal. Still not satisfied, he filed the present revision which was admitted on 26.3.2007. His sentence of imprisonment was also suspended.

Learned counsel for the petitioner has submitted that during the pendency of the present revision, the parties have amicably settled the matter between themselves and, therefore, the petitioner does not challenge his conviction under Section 138 of the Negotiable Instruments Act. However, he has prayed for reduction of sentence of imprisonment on the ground that he is facing the agony of criminal prosecution for the last more than fifteen years. He has since settled the matter with the complainant. Out of the sentence of six months imposed upon him, he has already undergone a period of more than one month. Prayer has, accordingly, been made for taking a lenient view in the matter of sentence of his imprisonment.

Learned counsel appearing for respondent No.2/complainant confirms the factum of compromise, having been arrived at between the parties. He further states that the complainant will have no objection if the petitioner is granted the

concession in the matter of sentence of his imprisonment.

As per the custody certificate produced by the learned State counsel, the petitioner has undergone total sentence of one month.

Having heard learned counsel for the parties, this Court is of the view that the petitioner can be granted the concession in the matter of sentence of his imprisonment especially in view of the fact that the parties have amicably settled the matter between themselves.

Resultantly, the conviction of the petitioner under Section 138 of the Negotiable Instruments Act is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

The revision is, accordingly, disposed of.

April 18, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No