

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

**Criminal Revision 417 of 2007
Date of Decision: February 6, 2017**

Anil Sharma	Versus	Petitioner
Satbir Singh and another		 Respondents

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

Present : Mr. Surinder Gandhi, Advocate
for the petitioner.

None for respondent No.1.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana
for respondent No.2-State.

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

The petitioner was tried for committing offence punishable under Section 138 of the Negotiable Instruments Act read with Section 420 IPC. Vide judgment and order dated 23/24.3.2006, learned Judicial Magistrate 1st Class, Rohtak, convicted him for the aforementioned offence and sentenced him to undergo imprisonment for one year and to pay a fine of Rs.5,000/- and in default of payment of fine, to undergo further imprisonment for one month. The fine amount was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, Rohtak, vide judgment dated 17.2.2007. Still not satisfied, he preferred the present revision, which came up for preliminary hearing on 2.3.2007, when after hearing learned counsel for the petitioner, the Court issued notice on the question of sentence. Subsequently, vide order dated 9.8.2007, the Court suspended his sentence of imprisonment and released him on bail.

Learned counsel for the petitioner has not challenged the impugned judgments passed by the Courts below in convicting him for the offence under Section 138 of the Negotiable Instruments Act read with Section 420 IPC. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last about fifteen years. He is the sole bread winner of his family. Out of the sentence of one year imposed upon him, he has already undergone a period of seven months. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Despite service, respondent No.1 has not put in appearance.

Learned State counsel has opposed the prayer made on behalf of the petitioner by submitting that the sentence

awarded to the petitioner is commensurate with the crime committed by him.

As per the custody certificate, already brought on record by the learned State counsel, the petitioner had undergone total sentence of seven months, which included remission of 25 days. He is not shown to be either involved or convicted in any other case.

After hearing learned counsel for the parties, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice will be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the sentence of fine of Rs.5,000/- imposed upon him by the learned trial Court and upheld by the learned lower appellate Court can be enhanced to Rs.20,000/-.

Resultantly, the conviction of the petitioner under Section 138 of the Negotiable Instruments Act read with Section 420 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine of Rs.5,000/- is, however, enhanced to Rs.20,000/-. The enhanced amount of fine shall be deposited by him with the

learned trial Court within three months from today, failing which, he shall undergo imprisonment for three months.

The entire amount of fine, be paid to respondent No.1/complainant, as compensation.

The revision is, accordingly, disposed of.

February 6 , 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No