

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

218

CRR No.2759 of 2015 (O&M)

Date of Decision: March 23, 2017

Gurmeet Singh

....Petitioner

vs.

Satnam Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Jagdish Rai, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.

1. The present revision petition is directed against the concurrent conviction of the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act. Petitioner stands sentenced to undergo simple imprisonment for three months and to pay compensation of ₹50,000/- (the cheque amount) to the complainant and in case of default in making the payment of compensation to undergo further three months simple imprisonment.

2. Learned counsel appearing for the petitioner at the very outset makes a submission that he is not assailing the conviction of the petitioner on merits but prays for a lenient view to be taken as regards quantum of sentence.

3. In the light of such submission made by counsel

appearing for the petitioner, this Court need not delve into the minute details of the case.

4. Suffice it to observe, case of the complainant was that he had advanced a loan amount to one Ujjagar Singh and the present petitioner had stood surety for Ujjagar Singh and had issued the cheque for such purpose.

5. This Court has gone through the judgment of conviction dated 15.07.2013, recorded by the Judicial Magistrate 1st Class, Chandigarh, as also the decision dated 05.06.2015, passed by the Appellate Court affirming the conviction. The judgment of conviction has been recorded upon due appreciation of evidence adduced on record and by assigning cogent and valid reasons. Conviction of the petitioner under Section 138 of the Negotiable Instruments Act as such does not call for any interference.

6. It may be noticed that on 25.08.2015, this Court had allowed application filed by the petitioner under Section 397 Cr.P.C. seeking suspension of sentence in CRM-24172 of 2015 by taking notice of the fact that out of the substantive sentence of three months simple imprisonment, the petitioner had already undergone two months 22 days.

7. Thereafter, on 13.10.2015, the main revision petition was adjourned sine die on account of the fact that respondent/complainant-Satnam Singh had not been served and it was directed that the petition be revived as and when the

correct address of the respondent is furnished by the petitioner.

8. Registry has now put up the case before this Court.

9. Mr. Jagdish Rai, Advocate, appearing for the petitioner submits that he has no other address available of the respondent.

Counsel states that he had furnished the address of the complainant as had been mentioned in the complaint itself.

Counsel however concedes that the payment of the compensation of amount of ₹50,000/- has not been made.

10. In the considered view of this Court, there are sufficient mitigating circumstances to take a lenient view as regards quantum of sentence. Petitioner has faced the pangs of trial followed by appeal for a period of more than a decade. Court has been apprised that the petitioner comes from a poor family, is a first time offender and is having five children to support. Out of the substantive sentence of three months simple imprisonment, the petitioner had already undergone two months and 20 days as on 25.08.2015 when the concession of suspension of sentence was granted to him by this Court. It would be too harsh for the petitioner to be called upon to serve out the remaining part of the sentence.

11. In view of the discussion above, the present petition is disposed of in terms of confirming the conviction of the petitioner for offence under Section 138 of the Negotiable Instruments Act. The sentence of the petitioner is reduced to the period already undergone. The bail bonds and surety bonds

furnished by the petitioner shall stand discharged.

12. It is however made clear that this order shall not impinge upon the complainant/respondent-Satnam Singh to take out appropriate proceedings for recovery of the compensation amount strictly in accordance with law.

13. Petition is disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

23.03.2017
anju rani

Whether speaking/reasoned : ***Yes/No***
Whether reportable ***:*** ***Yes/No***