

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRR-4608-2016(O&M)

Date of decision : 07.02.2017

Balbir Singh

... Petitioner

Versus

M/s Shriram Transport Finance Company Ltd.

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Pradeep Sharma, Advocate
for the petitioner.

Mr. G.S. Sandhu, Advocate
for the respondent.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner has challenged the judgments of the learned Courts below, holding him guilty of an offence punishable under Section 138 of the Negotiable Instruments Act 1881.

The petitioner had taken a loan from the respondent finance company, for an amount of ₹2,60,000/- in the year 2008, to purchase an Ashoka Leyland four wheeler vehicle, which, due to the fact that he could not pay the installments in respect of the loan, he surrendered to the respondent company in the year 2010, with an outstanding loan of ₹2,38,000/- still remaining to be paid (inclusive of the interest upto that date).

The learned trial Court having found him guilty, had sentenced him to rigorous imprisonment for a period of one year and further had

imposed a fine of ₹2000/-, in default of which he is to further undergo imprisonment for 15 days.

Upon appeal by the present petitioner, the learned Additional Sessions Judge, while maintaining the conviction for the offence, observed that the petitioner is a poor person who took a loan for the purchase of a vehicle to earn his livelihood, but since he could not earn adequate profits and was unable to repay the loan in time, he surrendered the vehicle to the complainant and the vehicle was also sold off by the respondent-complainant.

In the aforesaid circumstances, the sentence of the petitioner was reduced from one years' rigorous imprisonment to six months, with the fine imposed maintained.

Upon this revision petition having been filed, notice was issued by a co-ordinate Bench on 12.12.2016, only qua the quantum of sentence imposed.

Learned counsel for the respondent submits that the petitioner not having paid anything even thereafter, he is not entitled to further concession by this Court, on reduction of sentence.

Having considered the arguments made by learned counsel for the parties and having gone through the judgment of the learned appellate Court, in which the aforesaid observation was made, to the effect that the petitioner was a poor person who had taken a loan to obtain a vehicle for his livelihood and even thereafter he surrendered it upon finding he was unable to pay the installments, and seeing the fact that the petitioner has already undergone more than 4 months of imprisonment after the judgment of the learned appellate Court dated 03.10.2016, I consider it appropriate to

reduce such sentence to the extent of imprisonment already undergone by the petitioner, subject to payment of the fine imposed upon him by the learned trial Court, of ₹2000/-, in default of which the sentence would continue to operate for a period of 15 days.

Consequently, if the petitioner has already paid the fine of ₹2000/-, he shall be released from custody immediately forthwith; if not, he shall be released after a period of 15 days from today.

(AMOL RATTAN SINGH)
JUDGE

February 07, 2017.
Davinder Kumar

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