

233 (2 Cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1306-2017 (O&M)

Date of Decision: 11.08.2017

DHIRAJ VAID

... Petitioner

VS.

STATE OF PUNJAB AND ANOTHER

...Respondents

CRR-1322-2017 (O&M)

DHIRAJ VAID

... Petitioner

VS.

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Jaswinder Singh, Advocate
for the petitioner.

Mr. Arpinder Singh Sidhu, DAG, Punjab.

Mr. Nakul Sharma, Advocate,
for respondent No. 2.

KULDIP SINGH, J (ORAL)

This order of mine will dispose of above mentioned two revision petitions arising out of the similar facts.

The common facts of both the cases are that the petitioner took certain loans from the complainant against the pronote and receipt on different dates. In order to discharge the said liability of loan, petitioner issued two separate cheques. One cheque bearing No. 000593 dated 27.12.2010 for ₹3,50,000/- and the second cheque bearing No. 000594 dated 30.12.2010 which was amounting to ₹5,00,000/-. Regarding the said cheques, two separate complaints were filed bearing complaint No. 100/4 and 101/4 both dated 14.06.2011 and the same were disposed of vide two separate judgments dated 12.02.2015 passed by the learned Judicial Magistrate Ist

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Class, Khanna vide which the petitioner was convicted under Section 138 of Negotiable Instruments Act, 1881 and in both the complaints two separate orders of sentence were passed and the petitioner was sentenced to undergo simple imprisonment for one year along with fine of ₹2,000/- and in default thereof further imprisonment for one month.

The appeals against the said judgments were dismissed by the Learned Additional Sessions, Judge Ludhiana on 11.01.2017 and against the said judgments of both the Courts below, the petitioner has filed the present two revision petitions.

The short prayer of the learned counsel for the petitioner at the time of arguments is for concurrent running of the sentences passed in two complaint cases stating that it was a financial transaction between the same parties. The prayer of learned counsel for the petitioner has vehemently been opposed by the learned counsel for the respondent No. 2. Learned counsel for the respondent No. 2 has relied upon an authority of the apex Court in case of *“M.R. Kudva Vs. State of Andhra Pradesh” 2007(1) RCR (Criminal) 868*.

The perusal of the said authority shows that in that case, the judgement of the lower Court had become final up to Supreme Court of India and thereafter, separate application under Section 427 Cr. P.C. was filed before the High Court which was found to be not maintainable.

In the present case, the judgments of two Courts below are under revision and have not become final. This Court can always modify the judgment of both the Courts below. Therefore, the said authority in the case of *M.R. Kudva (Supra)* is not attracted in the facts of the present case.

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In view of the fact that two cheques bearing consecutive serial numbers i.e. 000593 and 000594 were issued only with a gap of three days in order to discharge the loan/liability between the same parties and that loan was taken against pronote and receipt, the prayer is allowed and the sentences awarded to the petitioner in both the complaints are ordered to run concurrently.

Accordingly the both the revision petitions are partly allowed to the above noted extent.

August 11, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No ✓
<i>Whether Reportable</i>	:	Yes	/	No