

129-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1311-2017 (O&M)
Date of decision-03.05.2017

Shakuntla Thakur

...Petitioner

Vs.

Harjit Kaur

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjay Tangri, Advocate for the applicant-petitioner(s).

Mr. Gunjan Rishi, Advocate for the complainant.

JITENDRA CHAUHAN, J. (Oral)

CRM-14536-2017

The instant application is for taking up the main case for hearing and disposing of the same in view of compromise dated 27.04.2017 (Annexure P-2) entered into between the parties.

Notice in the application.

Mr. Gunjan Rishi, Advocate accepts notice on behalf of the respondent.

In the interest of justice, application is allowed and main case is taken up on today's board with the consent of the parties.

CRR-1311-2017

The present revision petition is directed against the judgment and order dated 02.04.2016 passed by Judicial Magistrate First Class, Ludhiana vide which the petitioner was convicted under Section 138 of the Negotiable Instruments Act and the judgment dated 17.03.2017 passed by

learned Additional Sessions Judge, Ludhiana vide which the appeal filed by the petitioner was dismissed.

The brief facts of the present case as noticed in the judgment passed by Lower Appellate Court are as under:-

“The present complaint has been filed by the complainant alleging inter alia that there were good relations between the accused and the complainant and having friendly relations in the month of December, 2012, the accused approached the complainant with a request to advance financial help to the accused to start a new business. Keeping in view the friendly relations between the accused and the complainant, the complainant advanced an amount of Rs.2,50,000/- to the accused and the accused assured to return back the said amount within few months. The complainant pledged her gold ornaments with Muthoot Finance Company Ltd. Pakhowal Road, Ludhiana for Rs.80,000/- in the mid of December, 2012 and the remaining amount was arranged by the complainant from her house. After elapse of few months, the complainant approached the accused and demanded back her money but the accused lingered on the matter on one pretext or the other and on the repeated demands and request made by the complainant, the accused in order to discharge her legal enforceable liability the accused issued a self cheque bearing No.114653 dated 25.04.2014 for Rs.1,25,000/- drawn on Oriental Bank of Commerce, Mansuran, Ludhiana but the said bank of the accused disclosed that there was not sufficient funds in the account of the accused. However, on presentation of the said cheque by the complainant through his bankers, cheque was

received back dishonoured with the remarks “insufficient funds” vide bank memo dated 05.05.2014. Upon this, the complainant through got issued the statutory legal notice through his counsel on 07.05.2014 calling upon the accused to make good the amount covered under the cheque in question but despite this, the accused did not pay the said amount within 15 days from the date of receipt of the notice. Hence, the complainant had been constrained to file the present complaint.”

Learned counsel for the petitioner contends that during the pendency of the present petition, a compromise (Annexure P-2) has been reached between the parties and entire deemed liability as per the complaint, stands discharged. He further contends that the petitioner is a widow who had been working as a labourer. The loan in question was raised during the life time of her husband to meet household requirements. One of the sons of the petitioner is medically unfit whereas two others are unemployed. Therefore, she is the sole bread earner of the family. The petitioner is in judicial custody in pursuance to the judgment dated 02.04.2016 and she is not involved in any other FIR. The incident took place in the year 2014. The petitioner has suffered protracted trial for three years.

Even though the learned counsel for the petitioner has not challenged the judgment of conviction but to satisfy the conscience of this Court, the material available on record has been re-scanned. The case of the prosecution stands duly proved by testimony of complainant/respondent, Harjit Kaur who stepped into the witness box as CW-1 and tendered documents Ex.C-1 to Ex.C-4. The signatures of the petitioner on the cheques

in question were admitted by her and she could not support her claim that she had given the cheques to the complainant as security. Therefore, the judgments of conviction stand affirmed.

On the other hand, learned counsel for the complainant states that he has no objection in case the prayer made by the petitioner is allowed.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the case.

In view of the consensus reached between the parties and the fact that the petitioner is not involved in any other similar complaint, this Court is inclined to take a lenient view in the matter. Accordingly, the present revision is partly allowed and the sentence of the petitioner is reduced from one year to the period already undergone by her subject to the payment of costs of Rs.5,000/- to be made to the District Legal Services Authority, Ludhiana. She is stated to be in custody. She be released forthwith, if not required in any other case.

CRM-12389-2017

The instant application is for pre-poning the hearing of the case from 02.06.2017 to an early date.

Since the instant petition has been disposed of, the application stands dismissed as having become infructuous.

(JITENDRA CHAUHAN)
JUDGE

May 03, 2017

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No