

CRR-1331-2017

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

**CRR-1331-2017 (O & M)
Date of Decision: 19.12.2017**

Sukhwinder Singh

... Petitioner

Versus

Punjab National Bank

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Iqbal Singh Mann, Advocate,
for the petitioner.

Mr. Arvind Rajotia, Advocate,
for the respondent-bank.

INDERJIT SINGH, J.

The present revision has been filed by petitioner-Sukhwinder Singh against respondent-Punjab National Bank under Section 401 Cr.P.C., challenging the impugned judgment of conviction and order of sentence dated 15.07.2016 passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib, vide which the petitioner was convicted and sentenced to under rigorous imprisonment for a period of 02 years and to pay a fine of ₹5,000/- for the commission of offence under Section 138 of the Negotiable Instruments Act (for short, 'N.I.Act') and in default of payment of fine, the petitioner was further ordered to undergo rigorous imprisonment for a period of 01 month and also challenging the judgment dated 13.02.2017 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, vide which appeal filed by the petitioner was dismissed.

CRR-1331-2017

Notice of motion was issued. The respondent has appeared through its counsel and contested this revision.

I have heard learned counsel for the petitioner as well as learned counsel for the respondent and have gone through the record.

As per the record, respondent-complainant, Punjab National Bank, filed a complaint under Section 138 of the N.I.Act on the allegations that the petitioner-accused took a term loan of ₹1,50,000/- from the complainant-bank on 10.11.2010 under PMEGP Scheme for the business of Mobile Phones and agreed to pay interest @ 12.25% per annum with monthly rests. In discharge of his legal enforceable liability, the accused issued a cheque No.496530 dated 04.10.2015 of ₹2,09,751/- of his account, which on presentation for encashment, was returned back unpaid with the remarks 'Funds Insufficient'. Thereafter, legal notice was served upon the accused and when the payment was not made to the complainant, the complaint was filed within time.

In support of its case, the complainant-bank examined R.K.Garg, Chief Manager, Punjab National Bank, Main Branch, Sri Muktsar Sahib as CW 1, Gurcharan Singh, Deputy Manager, PNB Branch, Lohan Bazar, Malout as CW 2 and thereafter, learned counsel for the complainant closed the evidence.

Statement of accused under Section 313 Cr.P.C. was recorded, wherein, he denied all the incriminating material appearing in the deposition of the complainant and pleaded his innocence. He stated that he has not committed any offence. There was no legal enforceable

CRR-1331-2017

liability against which the alleged cheque has been issued. The present complaint is false one. The accused opted to lead evidence in defence, but he failed to produce any evidence.

I have gone through the record of the courts below.

In his statement under Section 313 Cr.P.C., the accused has not taken any defence, rather stated that there was no legal enforceable liability against him and he has not committed any offence and he is innocent. As per Section 139 of the N.I.Act, the presumption arises against the accused as the cheque is admittedly signed by him. The complainant-bank has also produced evidence and so many documents in support of its case. As no defence has been raised by the accused, therefore, he failed to raise probable defence to rebut the presumption. Even, the accused failed to lead any defence.

From the above, I find that the concurrent findings given by both the courts below are correct, as per evidence and law. In no way, these findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread by the courts below and which material evidence has not been considered by the courts below. Nothing has been pointed out as to what illegality has been committed by the courts below.

Therefore, the impugned judgment of conviction dated 15.07.2016 passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib and judgment dated 13.02.2017 passed by learned Additional Sessions Judge, Sri Muktsar Sahib are correct, as per evidence and law

CRR-1331-2017

and the same do not require any interference from this Court.

Learned counsel for the petitioner submitted that the petitioner has been facing the trial for more than 02 years and has suffered a lot and therefore, he prayed for reduction of the sentence imposed upon the petitioner.

Keeping in view the facts and circumstances of the present case and in view of the facts that the petitioner has been facing the trial for such a period of more than two years, sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of 01 year and 09 months instead of 02 years. However, sentence of fine and in default thereof shall remain the same.

With the aforesaid modification in the sentence, the present revision petition stands dismissed.

19.12.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No