

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

**CRR No.2380 of 2017 (O&M)
Date of decision : August 18, 2017**

Kamal Kant

..... Petitioner

Versus

Sanjeev Kumar Saini and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.S. Mamli, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present revision petition has been filed against the judgment dated 05.06.2017 passed by learned Addl. Sessions Judge, Gurugram, affirming the judgment of conviction dated 28.09.2015 and order of sentence dated 29.09.2015, passed by learned Judicial Magistrate 1st Class, Gurgaon, vide which the present petitioner was convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for six months and to pay compensation of ₹7,00,000/- and in case of failure to make the payment within one month, he was liable to undergo simple imprisonment for one month.

Heard.

The original file was called for and examined.

The examination of the original file shows that as per the case

of the complainant, he after withdrawing money from his bank account,

advanced a loan of ₹7,00,000/- to the accused-petitioner in January, 2014. In order to discharge his liability, the accused-petitioner issued two cheques bearing Nos.978680 and 978681, dated 02.06.2014 amounting to ₹3,50,000/- each. But on presentation, these cheques were returned with the remarks 'Funds Insufficient'.

A perusal of the original file shows that the accused-petitioner while appearing as DW4 admitted that the complainant was his school friend and that there were earlier loan transactions between them also. He claimed that one cheque amounting to ₹50,000/- was taken as security in the year 2013 when a loan of ₹2,00,000/- was advanced to him. Subsequently, he was told that the said cheque had been lost. Therefore, another blank cheque was given. The accused-petitioner also claimed that ₹2,00,000/- were returned by him to the complainant and no loan was taken in January 2014 as claimed by the complainant.

Both the Courts below have dealt with the matter in detail. The accused-petitioner neither made a report about the loss of the cheque to its bankers nor made any complaint. Two cheques of the same date were issued to the complainant. There were also earlier loan transactions between the parties but the respondent-complainant never insisted for security. Therefore, it is unlikely that this time, he had insisted for security and on the pretext of loss of previous cheque, he had demanded another blank cheque as security. The accused-petitioner while appearing as DW4 admitted his signatures on the cheques. Therefore, I am of the view that there is no illegality or infirmity in the findings recorded by both the courts below. Thus, there is no ground to reduce the sentence of imprisonment awarded to the accused-petitioner.

As such, the present revision petition is dismissed.

August 18, 2017

sarita

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	Yes
Whether Reportable:	No