

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2579 of 2017 (O&M)

Date of decision : 28.7.2017

M/s MGR Shawls through its Proprietor and another
.....Petitioner

vs.

M/s Youngman Woolen Mills (P) Ltd.
.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sahil Khunger, Advocate for the petitioner

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H. S. Madaan, J. (Oral)

This revision petition is directed against the order passed by learned Additional Sessions Judge, Ludhiana, vide which while allowing the application under Section 389 Cr.P.C. for suspension of sentence, till disposal of appeal, learned Additional Sessions Judge had directed the accused-appellant to deposit 1/3rd of the compensation amount. The amount was not deposited within the time so directed and application for extension of time was moved which was allowed till 29.7.2017. The accused is aggrieved by such condition imposed by the Appellate Court directing deposit of 1/3rd of the compensation amount for suspension of sentence.

Brief facts of the case are that M/s Youngman Woolen Mills (P) Ltd., had brought a complaint under Section 138 of the

Negotiable Instruments Act, against M/s G.R. Shawls through its proprietor/partner, as well as Jagdish Arora as proprietor/partner of the said concern on the allegations that the accused had purchased goods in the form of knitted clothes from complainant vide various bills and amount of Rs.4,01,900/- was outstanding as on 7.5.2013, whereas as per the account statement for the year 2013-14 the outstanding amount happened to be Rs. 3,56,900/- and to discharge the financial liability the accused had issued cheque No. 153485 dated 21.3.2013 for Rs.50,000/-, cheque No. 153486 dated 26.3.2013 for Rs.50,000/- and cheque No. 153487 dated 31.3.2013 for Rs.61,688/-, all drawn on J&K Bank, Near Cheema Chowk, Ludhiana. However, on presentation, the cheques were dishonoured vide memo dated 15.5.2013. The complainant served a legal notice dated 25.5.2013 upon the accused calling upon them for payment of amount of cheque within 15 days of receipt of notice but they failed to do so, as such complaint was filed. The accused were summoned. Accused Jagdish Arora put in appearance for himself and his concern. Notice of accusation was served upon the accused and after trial accused Jagdish Arora, proprietor/partner of accused No.1 concern was sentenced to undergo rigorous imprisonment for a period of 1 year and in terms of Section 357(3) Cr.P.C. it was directed that convict shall pay compensation amount of cheques in question to the complainant, who can recover entire amount either from accused or from his personal properties under law, vide judgment dated 19.5.2017 by Judicial Magistrate Ist Class, Ludhiana.

The accused preferred an appeal against judgment of his

conviction and sentence, moving an application for suspension of sentence, where the impugned order was passed.

I have heard learned counsel for the petitioner and I find that there is absolutely no merit in the revision petition, rather the same is not maintainable. The Appellate Court is justified in imposing any term or condition while suspending the sentence of the accused-appellant, rather the Appellate Court showed indulgence to the accused appellant by asking him to deposit 1/3rd of the compensation only, instead of the complete one. There is no illegality or infirmity in the impugned order, which might have called for interference by this Court while exercising revisional jurisdiction.

The revision petition has no legs to stand and is dismissed accordingly.

(H.S. Madaan)
Judge

28.7.2017
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No