

In the High Court of Punjab and Haryana at Chandigarh

CRR No.4489 of 2017 (O&M)

Date of decision: 6.12.2017

Indernath Jha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.Manu K.Bhandari, Advocate for the petitioner.

Ms.Monika Jalota, DAG Punjab.

KULDIP SINGH, J.(Oral)

Custody certificate filed in the Court today, is taken on record.

On the last date of hearing, the revision was pressed on the quantum of sentence. Petitioner was declared proclaimed offender in complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (as amended). He has been convicted by the courts below under Section 174-A IPC and sentenced to undergo RI for one year and to pay fine of Rs.1000/- and in default thereof, he is sentenced to undergo SI for one month.

Learned counsel for the petitioner has produced copy of order passed in the complaint under Section 138 of Negotiable

Instruments Act, 1881 which shows that on 10.3.2014 i.e. on the day of registration of the FIR under Section 174 A IPC, the petitioner had paid the entire cheque amount in the complaint filed under Section 138 of Negotiable Instruments Act, 1881 and the said complaint was withdrawn. However, in return, the petitioner did not challenge the said order of declaring him proclaimed offender. The petitioner was working as a teacher in a Convent School and on account of his conviction, he has been dismissed from service. Prayer has been made for release him on probation.

Considering that the cheque amount was paid immediately on the day of registration of the FIR and that complaint under Section 138 of Negotiable Instruments Act was withdrawn, I am of the view that it is a proper case where the petitioner should be given a chance to reform himself. Therefore, while maintaining the conviction under Section 174 A IPC, which technically is made out, the sentence passed upon him is set aside and the petitioner is ordered to be released on probation under Section 5(1) of the Probation of Offenders Act, 1958 on executing probation bond in the sum of Rs.10,000/- with one surety of the like amount, for a period of six months, with an undertaking to maintain peace and be of good behaviour and not to repeat this type of conduct. The petitioner be released forthwith, if not required in any other case. Probation bonds be executed within two weeks from the date of his release from the jail. It is further directed that as provided under Section 12 of the

Probation of Offenders Act, 1958, his conviction shall not be treated as disqualification for any purpose whatsoever. The petition is partly allowed.

6.12.2017

Meenu

(KULDIP SINGH)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No