

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

CRR No.517 of 2017 (O&M)

Date of decision : December 05, 2017

Tarsem Lal

..... Petitioner

Versus

Gajinder Singh Arora and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- None for the petitioner.

Mr. Vinod Khunger, Advocate for respondent No.1.

Ms. Monika Jalota, DAG, Punjab.

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)

Today, none has appeared for the petitioner, despite being notified to learned counsel for the petitioner.

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

I have considered the case of the petitioner and heard learned counsel for the respondents and have also carefully gone through the case file.

The accused-petitioner issued a cheque bearing No.0624650, dated 20.04.2010 for ₹1,00,000/-, which was dishonoured for want of 'sufficient funds'. The learned Chief Judicial Magistrate, Ferozepur, vide judgment of conviction and order of sentence dated 31.10.2015 convicted the petitioner for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of ₹10,000/-, in default

thereof to further undergo rigorous imprisonment for 15 days.

In appeal filed before the learned Sessions Judge, Ferozepur, the parties arrived at a compromise. The relevant extract of the judgment is as under:

“11. It is significant to note here that during the pendency of the instant appeal, both the parties arrived at a compromise. Joint statement of both the parties was recorded on 26.04.2016. In terms of the compromise, Tarsem Lal appellant-accused agreed to pay lump sum amount of Rs.45,000/- to Gajinder Singh Arora in two installments, out of which first installment to the tune of Rs.25,000/- was to be paid on 02.07.2017 and the balance amount of Rs.20,000/- was to be paid on 15.07.2016. It was further agreed that in case of default of payment of any of the installments, the appeal filed by Tarsem Lal appellant-accused will be deemed to be dismissed and in case, the payment is made as per compromise, the matter was agreed to be compounded and the accused was to be acquitted.”

It comes out that thereafter, the petitioner refused to make the payment and presses the appeal on merits. Therefore, the appeal was decided on merits. The findings of the lower court was affirmed.

I am of the view that before both the courts below, it is proved that the petitioner had issued a cheque but he refused to make the payment. He even honoured the compromise before the lower appellate court. Therefore, there is no illegality or infirmity in the concurrent findings recorded by both the courts below.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

December 05, 2017

sarita

Whether speaking / reasoned Yes Whether Reportable: No