

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 116

CRR-869-2017 (O&M)
Decided on : 07.04.2017

Sat Narain @ Sanjay

..... Petitioner(s)

VERSUS

Kashmiri Lal and another

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Peeush Gagneja, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The complainant approached the trial court on the ground that the petitioner in discharge of his liability towards the complainant had issued a cheque for Rs.45,000/- which on presentation was dishonoured. The complainant brought the above fact to the notice of the petitioner but to no avail. A registered legal notice was then got issued to the petitioner by the complainant to which also no response was received leading to the filing of the afore-referred complaint.

After preliminary evidence on notice having been issued by the trial court, the petitioner appeared and on his pleading not guilty, was put to trial during the course of which he admitted before the trial court to have issued the cheque in question in discharge of his legal liability towards the complainant. He further admitted the claimant's claim and agreed to make the payment of the cheque amount in instalments. However, after having paid Rs.10,000/-, the remaining amount of Rs.35,000/- was not paid. No explanation for non-payment of the balance amount was also given. In view of the confessional statement of the petitioner which had not been lived up to by him, he was convicted by the trial court and sentenced to undergo rigorous imprisonment for a period of six months under Section 138 of the Negotiable Instruments Act, 1881 alongwith fine of Rs.5,000/-. In default of payment of fine, he was directed to further undergo rigorous imprisonment for seven days.

The petitioner challenged the afore conviction and sentence by way of an appeal which was considered and rejected by the Additional Sessions Judge, Fazilka, giving a cause to the petitioner to approach this Court through the present petition.

When the present petition had initially come up for hearing, on prayer made by learned counsel for the petitioner he was granted time to seek instructions whether the petitioner would be willing to pay to the complainant the cheque amount. On receipt of such instructions, learned counsel submitted that the petitioner was not in a position to do so.

The petitioner had admitted before the trial court that he had issued the cheque in question in favour of the complainant in discharge of his legal liability. He had further admitted that such cheque, on presentation had been dishonoured and, therefore, before the trial court he agreed to pay to the complainant the cheque amount, though in instalments. Such admission was neither disputed before the appellate court nor before me. Learned counsel for the petitioner also does not dispute that the undertaking given by the petitioner before the trial court for paying the entire cheque amount, was not fully honoured by him.

In view of the above, I find no reason to interfere with the orders passed by the trial court as also by the appellate court especially when on prayer made by learned counsel for the petitioner, I had granted him time to seek instructions from the petitioner whether he was still ready and willing to pay the cheque amount to which the petitioner refused.

Dismissed.

07.04.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No