

\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 634/2016 & CrI. M.B.1709/2016, CrI.M.A.14901-02/2017

SOHAN PAL SHARMA

..... Petitioner

Through: Mr. Jayant K. Sud, Sr. Adv. with Mr.
Honey Khanna & Mr. Manish Lamba,
Advs.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms. Neelam Sharma, APP.
SI Vineet, P.S. Anand Vihar

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **11.07.2017**

The present revision petition is directed against the judgment and order of conviction passed by the two courts below whereby the revisionist/petitioner has been convicted under Section 138 of Negotiable Instrument Act, 1881 and was initially sentenced to undergo SI for one year and to pay a fine of Rs.30 lakhs.

It has been submitted that on appeal by the petitioner against the judgment and order of conviction by the learned magistrate, neither the conviction nor the sentence was interfered with. However, a default clause was added by the Appellate Court, in the absence of the petitioner as has been argued, to suffer SI for further 6 months in case of non-payment of the fine of Rs.30 lakhs.

Though Mr. Jayant Sud, learned senior advocate, has challenged the

judgment of conviction and sentence on merits as well but the main contention raised by him is that adding the default clause in the sentence, without hearing the petitioner was not permissible as it amounted to enhancement of sentence. The other limb of the argument of Mr. Sud is that for recovery of fine, a set procedure under Section 441 Cr.P.C. has been delineated.

The petitioner is said to have remained in custody for about one and a half year by now. The extended period of sentence, because of non-payment of fine, would also expire on 29.07.2017.

Taking into account the aforesaid facts, but without going into the merits of the case, the sentence imposed upon the revisionist/petitioner is reduced to the period which he has already undergone in custody upto now. While saying so, this court is of the view that the interest of justice would be sub-served by reducing the sentence of the petitioner to the period of custody already undergone by him which includes major part of the extended imprisonment.

The revision petition, thus, is partially allowed.

The sentence imposed upon the petitioner is modified to the extent indicated above.

The petitioner is directed to be released forthwith from jail in case he is not required in any other case.

Copy of the order be communicated to the Superintendent of the concerned jail for compliance and record.

Dasti.

JULY 11, 2017/ns

ASHUTOSH KUMAR, J

