

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 170 of 2013**

Basant Sahu, aged 55 years S/o Shri Ramlal Sahu, R/o Telipara, Bilaspur, P.S. City Kotwali, P.O./Tahsil/District Bilaspur (C.G.)

---- Applicant

Versus

Girdharilal, aged 49 years S/o Hoteldas, Shatriya, R/o Karbala Road, Juna Bilaspur, P.S. City Kotwali, P.O./tahsil/district Bilaspur (C.G.)

-----Respondent

For Applicant	:	Mr. Ritesh Verma, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**07/12/2018**

1. Being aggrieved by the judgment dated 27/11/2012 passed in Criminal Appeal No. 144/2012 by the First Additional Sessions Judge, Bilaspur, the Applicant/Complainant has filed this revision.
2. Facts of the case are that the Respondent/accused borrowed a sum of Rs. 50,000/- from the Complainant and executed promissory note in his favour. On demand, the Respondent issued a cheque No. 486262 of Rs. 50,000/- of Punjab National Bank, Bilaspur on 18/02/2004 and delivered the same to the Applicant for encashment. The Applicant deposited the cheque, but the same was dishonored due to insufficient of fund. The Applicant intimated the Respondent regarding dishonor of cheque, then the Respondent took it back and after changing the date again gave the same to the Applicant for withdrawing the same. The

cheque was again dishonored. The Applicant served a notice to the Respondent through his counsel for demand of the amount, but the Respondent did not give response. Thereafter, the Applicant filed a complaint case before the learned Judicial Magistrate First Class, Bilaspur under Section 138 of the Negotiable Instruments Act. After trial, vide judgment dated 02/04/2012 passed in Criminal Case No. 932/2010, the learned Judicial Magistrate First Class convicted the Respondent under Section 138 of the Negotiable Instrument Act and sentenced him with one month SI and to pay compensation of Rs. 50,000/- to the Applicant under Section 357 (3) of the Cr.P.C with default stipulation. The learned Appellate Court also confirmed the conviction of the Respondent vide impugned judgment dated 27/11/2012, however, the Applicant was sentenced to till rising of the Court and to pay compensation of Rs. 15000/- only. Thus, this revision has been preferred.

3. Counsel for the Applicant submits that the sentenced imposed by the Appellant Court is against the law, facts and evidence available on record. He further submits that without any good and adequate reasons, the learned Appellate Court reduced the sentenced in most casual and inappropriate manner, therefore, it is not sustainable in the eye of law.
4. I have heard counsel for the Applicant and perused the records.
5. From perusal of the record, it is clear that initially, the learned Judicial Magistrate First Class had convicted the Respondent under Section 138 of the Negotiable Instrument Act and sentenced him with one

month SI and to pay compensation of Rs. 50,000/- to the Applicant under Section 357 (3) of the Cr.P.C with default stipulation. While deciding the appeal, it was observed by the learned Appellate Court that for the recovery of borrowed money, a separate civil suit has been preferred by the Applicant, which was decreed in his favour and the Applicant has obtained entire borrowed money during execution of said decree. It was also observed that the incident is of the year 2004 and the Applicant is facing the *lis* since 13 years. On these grounds, the Appellate Court reduced the sentence part.

6. From the above, it is clear the judgment passed by the learned Appellate Court is just and proper and there is no infirmity and illegality in the said judgment.
7. Accordingly, the revision is dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**