

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

**CRR No.3698 of 2015 (O&M)
Decided on: 15.03.2018**

Raj Kumar Sahani

....Petitioner

Versus

Sumitra Parihar

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Manoj Kaushik, Advocate
for Mr. Johan Kumar, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting-aside the judgment of conviction dated 21.07.2014 passed by the trial Court holding the petitioner guilty for offence punishable under Section 138 of the Negotiable Instruments Act (in short 'the N.I. Act'), the order of sentence dated 24.07.2014 vide which the petitioner was sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.50,000/- as compensation to the complainant as well as the judgment dated 24.09.2015 passed by the Revisional Court/Sessions Judge, Faridabad vide which the revision filed by the petitioner was dismissed.

Counsel for the petitioner has submitted that at the time of issuance of notice of motion vide order dated 01.10.2015, the petitioner was directed to deposit the cheque amount with the Registrar of this Court and his sentence was suspended. It is further submitted that the

petitioner has deposited the amount of Rs.33,000/- with the Registrar of this Court and thereafter, the said amount was released in favour of the respondent vide order dated 05.08.2016.

Counsel for the petitioner has also submitted that the cheque in dispute was issued as arrears of rent and in Civil Revision No.6419 of 2015 filed by the present petitioner, the matter has been amicably settled between the parties. The operative part of the said order is reproduced as under:-

“Vide order dated 28.05.2014, Rent Controller, Faridabad, had assessed the provisional rent and the matter was posted for 31.05.2014, to enable the petitioner-tenant to tender the assessed rent i.e. Rs.82,000/-. Concededly, a cheque bearing No.000043, for a sum of Rs.82,000/-, was tendered by the petitioner on the adjourned date and the matter was posted for 09.07.2014. However, the cheque tendered by the petitioner was dishonoured. As a result, his eviction was ordered vide order dated 09.07.2014. Appeal preferred against the order of assessment of provisional rent as also the order of eviction, dated 09.07.2014, failed and was dismissed vide judgment dated 25.08.2015. That is how, petitioner-tenant is before this court in this revision petition.

Having argued the matter at some length, learned counsel for the parties have reached a consensus that let the petitioner be afforded three months' time from today to vacate the premises. And he shall pay only a sum of ` 1,00,000/- in full and final settlement of the entire arrears of rent. Further, since the petitioner was convicted, pursuant to a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'), filed by the respondent-landlord, Criminal Revision No.3698 of 2015 preferred against the said judgment is

pending before this court. And, a draft for the cheque amount of ` 33,000/- had since been deposited by the petitioner, in the name of Registrar of this court, in the said proceedings. Respondent shall be free to get the said draft released in his favour. Consequently, necessary statements shall be made by the parties before the revisional court to settle the matter and have the conviction of the petitioner-tenant set aside. Likewise, respondent-landlord shall also withdraw another complaint, under Section 138 of the Act, pending consideration before JMIC, Faridabad.

That being so, the revision petition is disposed of in the following terms:

i) Petitioner-tenant shall continue to occupy the demised premises for a period of three months from today i.e. upto 02.02.2016;

ii) Petitioner-tenant shall deposit a sum of Rs.1,00,000/- with the respondent-landlord, within a period of two weeks from today by way of draft, failing which respondent-landlord shall be free to execute the order of eviction forthwith and obtain actual physical possession;

iii) However, on deposit of Rs.1,00,000/- by the petitioner-tenant, all claims as regards the entire arrears of rent shall be deemed to have been settled and satisfied;

iv) Petitioner-tenant shall pay future rent @ 11,000/- per month for a period of three months he shall occupy the demised premises. And in the event of even a single default, respondent-landlord shall be free to execute the order of eviction;

v) Petitioner-tenant shall defray all the water/ electricity charges for the period he shall remain in occupation of the premises;

vi) Petitioner-tenant shall vacate the demised

premises and hand-over its actual physical and vacant possession, free from all encumbrances to the respondent-landlord, on or before the stipulated date i.e. 02.02.2016, failing which respondent-landlord shall be free to execute the order of eviction and obtain possession;

vii) On the expiry of the aforesaid three months period and after the petitioner vacates the demised premises, parties to the lis shall file necessary affidavits and make the required statements before the revisional court, that is ceased of the criminal Revision No.3698 of 2015, to settle the dispute and to have the order of conviction of the petitioner set aside;

viii) A draft of Rs.33,000/- covering the cheque amount, furnished in the name of the Registrar of this court in those proceedings, shall be released in favour of the respondent-landlord and appropriate orders in this regard shall be obtained from the revisional court;

ix) Parties shall also appear before the JMJC, Faridabad, which is ceased of the complaint No.13849 of 2014, under Section 138 of the Act, against the petitioner, and shall withdraw the said proceedings; and

x) Both the parties shall furnish an undertaking in the above terms, by way of an affidavit, before the executing court as also this court, within two weeks from today.”

Counsel for the petitioner has further submitted that, thereafter on account of some discrepancy, the respondent has filed COCP No.895 of 2016 and the same was also disposed of on 31.05.2017 as the respondent – Sumitra Parihar was satisfied that the order dated 03.11.2015 was duly complied with by the petitioner and the contempt petition was disposed of having been rendered as infructuous. It is also submitted that in pursuance to the compromise,

nothing remains against the petitioner as he has already paid the cheque amount of Rs.33,000/- and has also handed over the possession of the property and cleared all the arrears as per the order dated 03.11.2015 passed in Civil Revision No.6419 of 2015.

A perusal of the last few orders show that no one is appearing on behalf of the respondent. Even today, there is no representation on behalf of the respondent.

In view of the submission made by counsel for the petitioner and in terms of the orders dated 03.11.2015 passed in CR No.6419 of 2015 and COCP No.895 of 2016, it is apparent that the entire dispute between the petitioner and the respondent is settled and the matter has also been amicably settled between the parties both on civil and criminal side, the revision petition is partly allowed, the sentence awarded by the trial Court i.e. 06 months rigorous imprisonment and imposition of fine of Rs.50,000/- as compensation to be paid to the respondent/complainant, is reduced to the period already undergone by him.

Disposed of accordingly.

15.03.2018

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(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No