

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

Sr.No.107

**Criminal Revision No.888 of 2015 (O & M)
Date of Decision:11.09.2018**

Ravail Singh

....petitioner

Versus

The Tarn Taran Central Cooperative Bank Limited and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Ranjit Sharma, Advocate
for the petitioner

None for respondent No.1-Bank

Mr.J.P.Ratra, DAG Punjab

ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for setting aside the judgement of conviction and order of sentence dated 29.01.2014, passed by Sub-Divisional Judicial Magistrate, Patti, vide which the petitioner was held guilty of offence punishable under Section 138 of the Negotiable Instruments Act (for short, “the Act”) and was ordered to undergo rigorous imprisonment for a period of one year as well as payment of fine of Rs.2000/- and in case of default of payment of fine, to further undergo rigorous imprisonment for one month and also to set aside the judgement dated 17.01.2015 passed by the Additional Sessions Judge, Amritsar, vide which the appeal filed by the petitioner was dismissed.

It is worth noticing here that on 13.03.2015 an undertaking was given by the petitioner that he is ready to deposit the entire amount due against him and later on, on 29.04.2015, it was observed that the complainant's counsel has admitted that an amount of Rs.2,50,000/- stood paid by the petitioner and only an amount of Rs.1,37,000/- is due.

Thereafter, on 19.05.2015, counsel for the complainant submitted a Statement of the loan account and on an undertaking given by the petitioner that he will pay the balance amount within one month, sentence of the petitioner was suspended.

Thereafter, on subsequent two dates, the petitioner has deposited the balance amount and it was noticed in the order dated 19.09.2015 that the petitioner has deposited the entire amount and nothing is pending against him.

Learned counsel for the petitioner has placed on record a certificate dated 18.09.2015 issued by the Branch Manager of the respondent-Bank certifying that no amount relating to the house loan is pending against the petitioner.

This petition is pending since the year 2015 and for the last three dates, there is no representation on behalf of the complainant-Bank.

Learned State counsel on the basis of custody certificate dated 30.05.2018, has submitted that out of one year rigorous imprisonment awarded by the trial Court, the petitioner has undergone 4 months and 9 days of actual sentence and 4 months and 21 days of total sentence including the remissions.

Learned counsel for the petitioner has restricted his arguments limited to the extent that since the petitioner has paid the entire amount, the

sentence already awarded by the trial Court be reduced to the sentence already undergone by the petitioner as even otherwise, the offences are compoundable under Section 147 of the Act. Since, there is no representation on behalf of the respondent-Bank for the last three dates, as noticed above, considering the fact that the petitioner has deposited the entire loan amount due against the respondent-Bank and the petitioner being the first offender and having undergone the actual sentence of 4 months and 21 days, the sentence awarded by the trial Court is reduced to the sentence already undergone by the petitioner. However, the fine of Rs.2000/- is upheld and petitioner is directed to deposit the fine within a period of two months from today, if not paid so far.

With these observations, the petition stands disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

11.09.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No