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

CRR-2371-2017 (O&M)
Date of decision-19.11.2018

Karamjit Singh **....Petitioner**

Vs.

Baljit Kaur and another **...Respondents**

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vaibhav Mittal, Advocate for
Mr. D.S.Gandhi, Advocate for the petitioner.

Mr. Sarabjit Singh, Advocate for respondent No.1.

Mr. Abhaypal Singh Gill, AAG, Punjab.

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MANOJ BAJAJ, J.

Karamjit Singh is aggrieved against the judgment of conviction and order of sentence passed by the appellate Court on 26.05.2017, whereby the judgment of conviction and order of sentence passed by trial Court dated 12.12.2016 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 was upheld.

The notice of motion was issued in this case on 15.09.2017, thereafter, the time was sought by counsel for the petitioner to seek instructions as whether he is willing to show his *bona fide* by depositing the half of the cheque amount. Respondent No.1/complainant was represented on 06.02.2018 and at that time also the time was sought to seek instructions as to whether the petitioner is ready to pay the cheque amount to the respondent. Thereafter, on 03.04.2018, the counsel for the petitioner had

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contended that his client is ready to settle the issue regarding actual loan amount of ₹15,00,000/- but being in custody cannot arrange the amount. The prayer for interim bail was accepted and the matter was adjourned to 27.04.2018. However, no compliance was done and it is apprised on behalf of learned counsel for the petitioner that no bail bond was furnished and therefore, compliance could not be made.

Custody certificate has been filed today and the same is taken on record. It indicates that the period of one year and six months has already been served by him.

Learned counsel for the parties have been heard and with their assistance I have gone through the impugned judgments.

The complainant has proved his case by examining Sukhjinder Singh as CW-2, an employee of the State Bank of Patiala who had brought the record and proved that a sum of ₹5,00,000/- were given by the complainant to accused by way of the cheque. Besides, complainant has also testified in support of his complaint. The Court have found that the evidence on record clearly establishes that the ingredients of the offence are proved. At the same time, the defence set up by the accused/petitioner that the cheque in question is dated 15.10.2013 and on the said date, he was in custody in case FIR No.199 dated 05.10.2014 registered under Section 420 of IPC at Police Station Patti. He remained in custody w.e.f.12.10.2013 to 07.12.2013. The Courts have rightly held that the fact of being in custody has no adverse effect on the instrument which is of 15.10.2013 as a cheque can be given with a post date and the said instrument is effective when it is

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presented to the banker.

Considering the background of the case and the conduct of the petitioner, this Court does not find any reason to interfere with the impugned orders passed by the trial Court as well as by the appellate Court as the same are passed on correct appreciation of the material before it and does not suffer from any illegality or error of law.

Dismissed.

(MANOJ BAJAJ)
JUDGE

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Whether speaking/reasoned : Yes No
Whether Reportable : Yes No

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