

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

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**CRR-3886-2017 (O&M)
Decided on : 16.05.2018**

Jagbir Singh

...Petitioner

Versus

The Hisar District Primary Coop Agricultural and
Rural Development Bank Ltd. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present : Mr.Jitender Dhanda, Advocate for the petitioner.

Mr. R.K.Doon, AAG, Haryana.

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

P.B.BAJANTHRI, J. (ORAL)

In the instant revision petition, petitioner has challenged judgments of trial and appellate courts dated 21/22.10.2014 and 18.09.2017. Respondent initiated complaint proceedings under Section 138 of Negotiable Instruments Act, 1881 (for short 'NI Act'). It was filed before the competent court and competent court decided on 21.10.2014 while convicting the petitioner and sentence was ordered on 22.10.2014 in the following terms:-

*“Keeping in view the totality of the circumstances and the fact of the case, the convict is sentenced to undergo **simple imprisonment for a period of one year under section 138 of the Negotiable Instrument Act. In***

*the case titled **HARI SINGH VS. SUKHBIR SINGH AIR 1988 S.C.2127 AND SUGANTHI SURESH KUMAR VS. JAGDESHAN AIR 2002 SC 681** it has been held by Hon'ble Apex Court that complainant can be compensated by way of giving compensation to him and the order of payment of compensation can be enforced by imposing sentence in default. **In these circumstances, this court grants the amount of cheque i.e. Rs.5,82,600/- as compensation to be paid to complainant. In default of payment of compensation, the convict shall further undergo simple imprisonment for three months.** The convict/accused is directed to pay the compensation to complainant within one month from today. File be consigned to record room after due compliance.”*

Thereafter, petitioner filed a criminal appeal before the Sessions court and it was decided on 08.09.2017 while confirming the trial court's order dated 22.10.2014. Hence the present petition.

Learned counsel for the parties submitted that during pendency of the present petition, petitioner has settled the amount which is due to the respondents and in terms of the trial court order. To that effect he has produced Annexures A1 and A2 dated 16.11.2017 and 06.11.2017. Both documents were not disputed by the respondents to the extent that petitioner has settled borrowed loan up to date including interest. Therefore, the parties are allowed to compound the offence. In view of these facts and circumstances, judgments/orders of trial as well as appellate courts dated 21/22.10.2014 and 18.09.2017 are set aside subject to deposit of 15% of the cheque amount in view of the principle laid down by Supreme Court of India in case titled as ***Damodar S. Prabhu versus Sayed Babalal H*** reported in 2010 (5) SCC 663. Since petitioner dragged the State

missionaries in respect of dispute between the petitioner and respondent-Bank, consequently he is liable to pay cost of Rs.5,000/- to the State of Haryana, within a period of 2 months from today. Cost shall be deposited in Home Department, State of Haryana within one month, failing which matter would be heard on merit.

With the above observation, revision petition stands disposed of

16.05.2018
pooja saini

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No