

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

Sr.No.244

Criminal Revision No.1925 of 2018 (O & M)

Date of Decision:14.09.2018

Surinder Kumar

....petitioner

Versus

State of Punjab and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.J.S.Grewal, Advocate
for the petitioner

Mr.Manreet Singh, AAG Punjab

None for the complainant

ARVIND SINGH SANGWAN, J. (ORAL):-

CRM-20455 of 2018

Prayer in this application is for condonation of delay of 495 days in filing the accompanying petition.

For the reasons set out in the application, the same is allowed.
Delay of 495 days in filing the petition is condoned.

Criminal Revision No.1925 of 2018

Prayer in this petition is for setting aside the judgement of conviction and order of sentence dated 13.03.2013 passed by the Judicial Magistrate First Class, Fazilka, vide which the petitioner was held guilty of offence punishable under Section 138 of the Negotiable Instruments Act(for short, 'the Act') and was sentenced to undergo rigorous imprisonment for a period of two years with a fine of Rs.5000/- and in default of payment of

fine to further undergo rigorous imprisonment for a period of two months as well as the judgment dated 21.01.2017, passed by the Additional Sessions Judge, Fazilka vide which the appeal filed by the petitioner was dismissed.

While issuing notice of motion, on request of learned counsel for the parties, that the matter can be amicably settled, the case was referred to the Mediation and Conciliation Centre of this Court. However, later on, on 06.06.2018, on the request of learned counsel for the petitioner, it was directed that the statement of the complainant be recorded before the trial Court/Duty Magistrate and the petitioner was directed to bring the necessary bank draft in compliance of the guidelines issued by the Hon'ble Supreme Court in ***“Damodar S.Prabhu versus Sayed Babalal H.;2010(5) SCC 663”*** and thereafter on 06.07.2018 the sentence of the petitioner was suspended as an undertaking was given by the petitioner that he will bring the receipt of the aforesaid amount on the next date of hearing.

Learned counsel for the petitioner has produced on record the photocopy of the receipt dated 09.07.2018, vide which an amount of Rs.24,800/- has been paid as 15% of the amount and the same is taken on record.

Learned counsel for the petitioner further submits that the fine has already been paid by the petitioner.

Learned State counsel has also filed the custody certificate and as per the custody certificate, the petitioner has undergone 4 months and 05 days of sentence including the remissions.

Since the petitioner, after his conviction, has settled the dispute with respondent No.2-complainant and has also deposited 15% of the

cheque amount as per the guidelines the Hon'ble Supreme Court in ***Damodar S.Prabhu's*** case; considering the fact that the petitioner has already undergone 4 months and 05 days of actual sentence, the offence under Section 138 of the Act is compounded as per the provisions of Section 147 of the Act and the sentence awarded to the petitioner is reduced to the sentence already undergone by him.

With the aforesaid directions, this petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

14.09.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No
Yes/No