

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

**CRR-609-2018 (O&M)
Decided on: 22.05.2018**

Bagicha Singh

.... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Ms. Shuchi Sodhi, Advocate,
for the applicant-petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab.

Mr. B.S. Sidhu, Advocate,
for respondent No.2-complainant.

H.S. MADAAN, J (ORAL)

CRM-5667-2018

The revision petition has been filed after 109 days of expiry of limitation. An application under Section 5 of the Limitation Act for condonation of delay has been filed for the reason that applicant-petitioner is a poor person, as he is in custody, he could not get the revision filed within time and now he has filed the revision petition through Legal Aid Counsel. Though, application is opposed by counsel for respondents, but I find sufficient reasons to accept the same and condone the delay.

Therefore, application is accepted and delay in filing of the revision petition stands condoned.

CRR-609-2018

Accused Sukhdev Singh had filed an application under Section 138 of the Negotiable Instruments Act against accused Bagicha Singh on the

allegations that the accused had issued a cheque bearing No.363812 of 19.06.2013 in the sum of Rs. 2 lacs drawn on Oriental Bank of Commerce, Sri Muktsar Sahib in favour of complainant on account of discharge of financial liability. However, on presentation, the cheque was received back encashed due to insufficiency of funds in account of the accused. The Banker accordingly informed the complainant, who got served a legal notice upon the accused on 31.07.2013 calling upon him to make payment of the cheque amount within a period of 15 days on receipt of notice, but the accused did not do so, despite received that notice. As such, he had filed complaint before Additional Chief Judicial Magistrate, Sri Muktsar Sahib. The accused was summoned to appear. He put in appearance and was sent to jail.

After trial, he was convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 7 days vide judgment dated 25.05.2015.

The accused-convict had preferred an appeal against that judgment of his conviction and order of sentence, which was, however, dismissed by Additional Sessions Judge, Sri Muktsar Sahib vide judgment dated 17.07.2017. As such, he has approached this Court by way of filing the present revision petition, notice of which was given to the respondents.

I have heard learned counsel for the revisionist and learned State counsel besides going through the record.

Learned counsel for the revisionist states that he does not challenge the impugned judgments passed by the Courts below as regards the conviction of revisionist for an offence under Section 138 of the Negotiable Instruments Act,

but prays for taking a lenient view in the matter considering the fact that revisionist has already undergone about 11 months of imprisonment, out of total imprisonment of one year awarded to him and furthermore that he is a poor farmer and only earning member in the family and he has already returned a part of the cheque amount.

Keeping in view the the facts and circumstances of the case in hand and submissions made by learned counsel for revisionist, I am of the view that ends of justice shall be adequately met, if while maintaining the conviction of the accused-petitioner, his sentence is reduced to one already undergone by him in this case, while maintaining the fine part. It is stated that fine has already been paid.

As such the revision petition challenging the impugned judgment stands disposed of with the above modification in the sentence. The petitioner – Bagicha Singh, who is stated to be in custody is ordered to be released forthwith on payment of fine, if not already paid, if his custody is not required in connection with any other case.

Necessary intimation be sent to the quarter concerned.

22.05.2018
Dinesh

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No