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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 42/2018**

VINOD KHANNA

..... Petitioner

Through : Mr Vikas Gupta, Mr Vipin
Kalra and Mr Savel Sharma,
Advocates.

versus

STATE & ANR

..... Respondents

Through : Mr Akshai Malik, APP.
Mr Ajai Kumar, Advocate with Mr
Manoj Kumar, Proprietor of R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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15.01.2018

Crl. M.A. 21074/2017(exemption)

Allowed, subject to all just exceptions.

CRL.REV.P. 42/2018

1. In this petition, the petitioner impugns order dated 08.09.2017 holding the petitioner guilty of offence under Section 138 of the Negotiable Instruments Act, 1881, and the Order dated 14.09.2017 imposing sentence on the petitioner of Simple Imprisonment for a period of three months and also a fine of Rs.4,50,000/-, out of which Rs.4,30,000/- is to be paid as compensation to the complainant and Rs.20,000/- as fine to the State and on the failure to pay the fine, the petitioner would undergo further Simple Imprisonment for a period of

two months.

2. Learned counsel for the petitioner submits that petitioner has settled the disputes with the respondent No.2 and the complainant has agreed to pay a sum of Rs.2,50,000 towards full and final settlement of the entire claim amount.

3. Learned counsel for the petitioner further submits that the family of the petitioner is in a very dire state and has had to borrow money to settle with respondent No.2 and there is grave hardship. It is contended that the petitioner was the main bread earner in the family and his wife is employed as a Teacher in the Junior School earning meagre amount of Rs.10,000/- per month and she has two school going children. With great difficulties, funds have been arranged to pay the amount to respondent No.2. It is contended that they do not have any capacity to borrow any further amount.

4. Learned counsel for the petitioner submits that the petitioner had earlier already undergone 9 days of judicial custody and after the impugned order, 03.01.2018 is incarcerated.

5. Learned counsel appearing for respondent No.2, under instructions, submits that respondent No.2 has agreed to settle the dispute with the petitioner and has agreed to receive Rs.2,50,000/- as full and final settlement of the claim of respondent No.2. A demand draft of Rs.2,50,000/- has been handed over to counsel for respondent No.2. Mr Manoj Kumar, proprietor of respondent No.2 has accepted the same.

6. In view of the facts and circumstances explained above, without interfering with the judgment holding the petitioner guilty, the Order on Sentence is modified and the Sentence is reduced to the period already undergone.

7. Further, in view of the explanation rendered and the circumstances explained, the order imposing sentence of Rs.20,000/-, to be paid to the State, is set aside. The petitioner be released forthwith, if not required in any other case.

8. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 15, 2018

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