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

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Judgment delivered on: 09.01.2018

+ CRL.REV.P. 297/2015

GURCHARAN SINGH KHARA

..... Petitioner

versus

SMT VANEETA KHANNA

..... Respondent

Advocates who appeared in this case:

For the Petitioner

:Mr. Aditya Wadhwa, Mr. Abhir Dutt & Debopriyo
Moulik, Advocates with petitioner in person.

For the Respondents

: Respondent in person.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

09.01.2018

SANJEEV SACHDEVA, J. (ORAL)

**CRL.REV.P. 297/2015 , CRL.M.(BAIL)7042/2015,
CRL.M.A.7445/2015, CRL.M.A.9595/2015, CRL.M.A.4869/2016
& CRL.M.A.16975/2016**

1. The petitioner impugns order dated 12.01.2015, rejecting the appeal of the petitioner impugning order dated 24.11.2014.
2. The petitioner was held guilty of an offence under Section 138 of the Negotiable Instruments Act, 1881 and awarded sentence of

simple imprisonment for a period of one year and was directed to pay a compensation of Rs. 1.25 crores to the respondent and in default of payment of compensation, to undergo simple imprisonment for a further period of six months.

3. It is contended by the petitioner that out of the said amount of Rs. 1.25 crores, the petitioner has already paid Rs. 1.20 crores to respondent. Further, it is contended that petitioner was taken in judicial custody on 11.09.2014 and was released on 06.06.2015 under the orders of this Court. Accordingly, the petitioner has been incarcerated for approximately nine months.

4. The petitioner, today, is aged 80 years and for his movement requires assistance of wheelchair.

5. The parties have entered into a settlement, whereby, it is undertaken by the petitioner to pay the balance sum of Rs. 5 lakhs, awarded as compensation to respondent by way of monthly instalments in the sum of Rs. 15,000/- per month. The petitioner undertakes to pay the said amount on or before the tenth day of each month by way of either electronic transfer in the bank account of respondent or, in the alternative, by way of a demand draft/banker's cheque in the name of the respondent.

6. The respondent who appears in person submits that she has no objection, in view of the above undertaking, if the petition is allowed and the sentence of the petitioner is reduced to the period already

undergone.

7. Keeping in view the fact that the petitioner has paid a sum of Rs. 1.20 lakhs and has undertaken to pay the balance amount of Rs. 5 lakhs to the respondent by way of monthly instalments of Rs.15,000/- and also keeping in view that he has undergone the sentence of approximately 9 months during which period he would have also earns some remissions and keeping in view the fact that the petitioner is aged 80 years and that the parties have settled their disputes, I am of the view, that without interfering with the findings returned in the judgment of the Trial Court, convicting the petitioner, it would be expedient and, in the interest of the justice, to reduce the sentence awarded to the petitioner for the period already undergone.

8. The undertaking of the petitioner to pay the balance amount of Rs. 5 lakhs in the instalments @ Rs 15,000/- per month is accepted. The petitioner is bound down to the same.

9. It is clarified that in case petitioner commits three successive defaults, in the payment of instalment amount, the petitioner would be liable to pay the entire balance amount forthwith and shall also be liable for the consequence of breach of undertaking given to this Court.

10. In view of the above, the petition is allowed. The sentence of the petitioner is reduced to the period already undergone.

11. The petition is, accordingly, disposed of in the above terms.

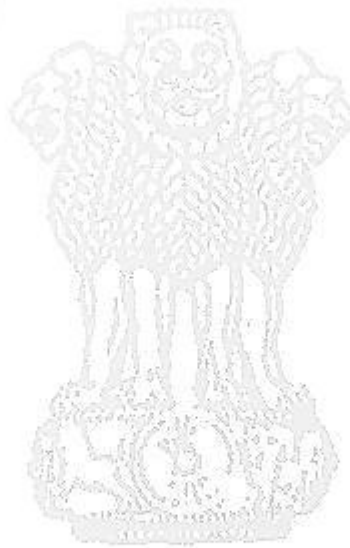
12. Order *Dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 09, 2018

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HIGH COURT OF DELHI



नित्यमेव जयते