

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.312 of 2019

- Mohammed Hanif Sakriya, S/o Abdulgani Sakrya, Aged About 55 Years, R/o Shriram Nagar Kanker, Police Station- Kanker, District- North Bastar Kanker, Chhattisgarh

---- Applicant

Versus

- Anil Agrawal, S/o Ramniwas Agrawal, Aged About 43 Years, R/o Housing Board Colony, Thelkabod, Police Station And Tahsil- Kanker, District- North Bastar, Kanker, Chhattisgarh

---- Respondent

For Applicant	:	Shri B.K. Chhatterjee, Advocate
For Respondent	:	None

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01.08.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 09.07.2018 passed by the Learned Sessions Judge, North Bastar, Kanker, C.G. in Cr. Appeal No. 18/2018, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Chief Judicial Magistrate, North Bastar, Kanker, C.G., vide its judgment dated 14.05.2018 in Cr. Case No. 973/2017 for the offence under Section 138 of the Negotiable Instrument Act, 1881(for short 'the Act,1881') and sentenced him to undergo RI for nine months along with fine of Rs. 5,00,000/-, with default stipulation.

2. Before the learned Judicial Magistrate, respondent had filed a complaint under Section 138 of the Act, 1881, on the ground that applicant issued two cheques of Rs.2,50,000/- each (total

Rs.5,00,000/-) in favour of the respondent, which were dishonored by the concerned bank. After giving notice to the applicant, respondent filed a complaint case against applicant under Section 138 of the Negotiable Instrument Act, 1881.

3. Before learned trial Court, complainant examined one witness. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case. The accused/applicant also examined one defence witness.

4. After hearing both the parties, learned trial Court convicted the applicant under Section 138 of the Act, 1881 and sentenced him to undergo RI for nine months and to pay fine of Rs.5,00,000/- with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Learned counsel for the applicant submits that the order passed by the learned Appellate Court is improper and against the law. He further submitted that the applicant had already undergone the entire jail sentence and proceedings of recovery of fine amount is pending before the trial Court.

6. None appears on behalf of the respondent though notice has been served.

7. Heard counsel for the parties and perused the material available on record including the impugned judgment.

8. The complainant (Respondent) produced all the relevant

documents and got exhibited the same (Ex-P-1 to Ex-P-10). The applicant has failed to rebut the oral and documentary evidence, therefore, the learned trial Court as also learned Appellate Court has rightly held the applicant guilty, which, in the opinion of this Court is just and proper.

9. As regards, conviction of the applicant, keeping in view the complainant/respondents oral and documentary evidence, established the guilt of the accused/applicant, this Court does not see any illegality or perversity in the findings recorded by both the Courts below.

10. As regards sentence, the applicant has already undergone the entire jail sentence imposed upon him, therefore, no further order is needed.

11. In view of the aforesaid discussion, the revision is dismissed. However, this Court do not express anything on merit with regard to fine imposed upon him by the learned trial Court. The trial Court to continue proceeding with regard to recovery, in accordance with law.

Sd/-
(Rajani Dubey)
JUDGE