

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 3760 of 2012 (O&M)
Date of Decision: 18.7.2019**

Ranjit Singh

.....Petitioner

Versus

State Bank of India

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Kulbir Sekhon, Advocate
for the petitioner.

Mr. Nitin Kumar, Advocate
for the respondent-Bank.

Mr. Nimit Goneka, Branch Manager, SBI, in person.

HARNARESH SINGH GILL, J

The petitioner was tried for committing the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'). Vide judgment and order dated 16.11.2011, learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib, held the petitioner guilty under Section 138 of the Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 2,00,000/- and, in default of payment thereof, to further undergo simple imprisonment for one month.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Sri Muktsar Sahib. Vide judgment dated 12.10.2012, the learned Additional Sessions Judge, Sri Muktsar Sahib, dismissed the appeal filed by the petitioner, thereby affirming the judgment

and order passed by the learned trial Magistrate. Still aggrieved, the petitioner has preferred the present revision petition.

As per the facts of the present case, respondent-bank filed a complaint under Section 138 of the Act. Petitioner-accused had availed personal loan of Rs. 3,50,000/- on 5.11.2007 and agreed to pay the loan amount in monthly installments. In order to discharge part liability, the petitioner-accused issued cheque No. 051476 dated 9.6.2009 for a sum of Rs. 3,53,000/-. The respondent-bank presented the above mentioned cheque for encashment but the same was returned unpaid to the respondent-bank with remarks "insufficient funds". Thus, the respondent-bank issued registered notice dated 24.6.2009 under Section 138 of the Act requesting the petitioner to clear the cheque amount.

The petitioner took stand that the cheque in question was taken by the bank as security after obtaining his signatures at the time of sanctioning loan and that nothing was due towards him.

Mr. Kulbir Sekhon, Advocate appearing for the petitioner has argued that the petitioner had availed personal loan of Rs. 3,50,000/- on 5.11.2007 and during the pendency of the present petition, amount of Rs. 1.00 lac (One lac) was deposited on 26.4.2014 in the loan account and regarding this, affidavit of the petitioner dated 14.5.2015 has been placed on record. He further submits that out of one year, the petitioner has already undergone more than two months of actual sentence as he was taken into custody on 12.10.2012 and released on bail on 14.12.2012.

Per contra, Mr. Nitin Kumar, Advocate representing the bank, on instructions from Mr. Nimit Goneka, Manager, has stated that as the petitioner did not deposit the due amount, the bank was constrained to file a

recovery suit which has been decided against the petitioner.

This Court is of the considered opinion that Rs. One lac stands deposited by the petitioner and out of one year of sentence, he has already undergone more than two months of actual sentence. Also a recovery suit stands decreed in favour of the bank. Thus, no useful purpose will be served by sending the petitioner behind the bars once again to undergo the remaining sentence, at this stage.

Keeping in view the above facts and circumstances of the present case, I feel that ends of justice would be suitably met, if the sentence awarded to the petitioner is reduced to the period already undergone.

Accordingly, the conviction of the petitioner, under Section 138 of the Act is maintained. However, by upholding the fine imposed by the learned Magistrate, sentence qua imprisonment of the petitioner is reduced to the period already undergone by him.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

July 18, 2019
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes