

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2678-2014

Date of Decision: 17.05.2019

Jasbir Singh

.....Petitioner

Versus

Hassan Lal and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Dinesh Nagar, Advocate, for the petitioner.

Mr. Arun Takhi, Advocate, for respondent No.1.

Harnaresh Singh Gill, J.

The present revision petition is directed against the judgment dated 23.5.2014 passed by the learned Additional Sessions Judge, SBS Nagar, whereby appeal filed by the petitioner against the non grant of compensation amount in a complaint filed by him under Section 138 of the Negotiable Instruments Act, was dismissed.

Respondent-Hussan Lal 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 23.11.2012, learned Judicial Magistrate, Ist Class, SBS Nagar, held the respondent 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.5,000/- and, in default of payment of fine, to further undergo simple imprisonment for a period of 15 days.

As stated above, the grievance of the petitioner-complainant is that the learned trial Court had committed patent illegality in not granting compensation amount equivalent to the cheque amount. For that purpose, he filed an appeal before the learned Sessions Judge, SBS Nagar, but vide impugned judgment dated 23.05.2014, learned Additional Sessions Judge, SBS Nagar, dismissed the said appeal, being not maintainable. It was further held that once, the fine was imposed, compensation was not required to be granted. The relevant extracts from the judgment of the appellate Court, would read as under:-

“22. Learned counsel for complainant has argued that the sentence imposed by learned trial Court is not appropriate. The accused is liable to be burdened with the fine of double of the amount of cheque which was issued by the complainant. Learned trial Court has ignored this fact and imposed rigorous imprisonment for one year and fine of Rs.5000/- to the accused. Therefore, he argued that the sentence awarded to the accused Hussan Lal may kindly be enhanced from one year to at least two years and fine may be enhanced to Rs.6,00,000/- which may be converted into compensation to be paid to the appellant in the interest of justice. Learned counsel for the appellant has relied upon the case titled as R. Vijayan Vs. Baby & Anr., 2012 AIR SC 528, in support of his contentions. Proviso of Section 372 of Cr.P.C. gave right to the victim to prefer an

appeal against the order in following three conditions:-

- (I) The trial Court has acquitted the accused.
- (II) The accused was convicted for a lesser offence.
- (III) Imposing inadequate compensation.

23. I have gone through the order of sentence passed by learned trial Court. Learned trial Court has convicted Hussan Lal to undergo rigorous imprisonment for one year and also fined him Rs.5000/-. No compensation was awarded to the complainant. The appeal of the complainant is not maintainable as none of the conditions of proviso of Section 372 of Cr.P.C. are satisfied. Learned trial Court has not awarded any compensation. Learned trial Court has imposed fine and when the fine is imposed no compensation can be granted. I am supported on this point by case titled as R. Vijayan Vs. Baby & Anr. (supra), relied upon by learned counsel for complainant. However, the sentence imposed by learned trial Court for dishonouring the cheque is also correct. There is no ambiguity in the said order. Therefore, there is no force in the contention of learned counsel for complainant.”

Admittedly, the appeal filed by the complainant before the trial Court was against the non grant of compensation. As per the provisions contained in Section 372 Cr.P.C., appeal is maintainable at the instance of the victim (i.e.

complainant in the instant case) only under the three circumstances i.e. i) against the acquittal of the accused; ii) conviction of the accused for the lesser offence; and iii) for inadequate compensation. None of the above conditions, was attracted in the case of the complainant. Hence, the appeal filed by the complainant was rightly held to be not maintainable.

In view of the above, I do not find any merit in the present petition. The same is, accordingly, dismissed.

(HARNARESH SINGH GILL)
JUDGE

17.5.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No