

**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.4084 of 2017 (O&M)
Date of Decision : 07.03.2019**

Puran Singh

..... Petitioner

versus

The State of Punjab & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. J.S.Jaidka, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr. Ashish Bansal, Advocate
for respondent No.2.

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent conviction of the petitioner under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”).

The admitted facts are that the petitioner had taken a loan of Rs.6,60,000/- but defaulted. Ultimately two cheques having bounced he was prosecuted under Section 138 of the Act. In one case he was sentenced to 1 ½ years imprisonment and in the second case (present case) he was sentenced to 1 year imprisonment. In the first case he had undergone 1 year, 5 months & 25 days and at that stage this Court had reduced his sentence to that which he had already undergone by judgment and order

dated 17.01.2019 passed in ***CRR No.4064 of 2017 titled as Puran Singh Vs. State of Punjab & another.*** Thereafter his sentence started in the present case.

Counsel for the petitioner has prayed that in view of the fact that the petitioner has now been in custody for more than 1 year & 7 ½ months, his sentence even in this case should be reduced to that which he had undergone.

On the other hand counsel for respondent No.2-Bank states that in this case notice of motion was issued on the express offer of the petitioner that he would refund the money and he has not refunded the same, therefore he is not entitled to any concession.

Counsel for the petitioner points out that the return of money was not because of any ill intention but because the petitioner is not in a position to return the money. He has relied upon a judgment of this Court passed ***Balbir Singh Vs. M/s Shriram Transport Finance Company Ltd., 2017 (1) LAR 155*** wherein this Court had noticed that the petitioner was a poor person who had taken a loan to buy a vehicle to support himself but he could not earn enough money and the vehicle was repossessed and in that case had reduced the sentence to 4 months.

Keeping in view the entire facts and in the present case also the facts situation is similar. The distinction in that case and in this case was that in that case there was only one cheque but in the present case there were two cheques. Consequently, it is not a case of absolute parity. However keeping in view the entire facts and circumstances, I reduce the sentence of the petitioner to 6 months.

Petition stands disposed of.

Since the main case has been decided, the pending Criminal
Misc. Application, if any, also stands disposed of.

07.03.2019
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No