

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1856 of 2018 (O&M)

DATE OF DECISION: FEBRUARY 13, 2019

SANDEEP KUMAR

...PETITIONER

VERSUS

SHRIRAM TRANSPORT FINANCE CO. LTD. & ANR. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. PARMINDER SINGH, ADVOCATE FOR THE PETITIONER.
MR. GAURAV SHARMA, ADVOCATE FOR RESPONDENT NO.1.
MR. ANMOL MALIK, AAG, HARYANA.

MANOJ BAJAJ, J.

The petitioner has preferred this revision petition against the judgement dated 10.5.2018, passed by Addl. Sessions Judge, Karnal, whereby the judgement of conviction dated 26.8.2014 and order of sentence dated 28.8.2014 passed by Judicial Magistrate 1st Class, Karnal under Section 138 of the Negotiable Instruments Act, 1881 sentencing the petitioner to undergo R.I. for 2 years and to pay a fine of ₹500/- and in default of payment of fine, to undergo further S.I. for 7 days, was upheld.

It is the case of the prosecution that the accused-petitioner got financed a vehicle TATA Indigo for a sum of ₹3,70,000/- from respondent No.1 @ 10.10% per annum to be paid in 46 monthly installments under the loan-cum-hypothecation agreement with respondent No.1. The petitioner had issued a cheque bearing No.778368 dated 29.3.2013 for a sum of ₹2,45,000/- drawn at Punjab National Bank, Karnal in favour of complainant-respondent No.1 to discharge the liability. Upon presentation

of the cheque before the Bank, the same was returned by the Bank with remarks "*Insufficient Funds*". A statutory Legal Notice was issued by the complainant but the petitioner failed to make the payment. The petitioner was tried for the offence under Section 138 of the Negotiable Instruments Act.

The trial Court after relying upon the evidence adduced by the complainant found the petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and convicted and sentenced him as noticed above.

The petitioner challenged the aforesaid judgment of conviction and sentence by filing the appeal before the appellate Court which was also dismissed. Hence the present revision petition.

Learned counsel for the petitioner states that he does not wish to challenge the conviction and confines his prayer only to the sentence part awarded to the petitioner. Learned counsel submits the petitioner has a family consisting of wife and three minor children and is the sole bread winner of the family.

Learned counsel for the State as well respondent No.1 opposed the prayer for grant of concession in the sentence part. Learned counsel for the State has placed on record the custody certificate of the petitioner which shows that the petitioner has undergone more than 9 months.

Considering the the fact the petitioner is the sole bread winner of the family and has a dependent family including three minor children and the fact that the offence was summarily triable and the petitioner had

suffered the agony of trial and appeal for a period of 5 years, it would be in the fitness of the facts and circumstances that the sentence imposed on the petitioner be reduced to 1 year R.I. than that of 2 years R.I., as awarded by the trial Court.

Therefore, while upholding the conviction, the sentence of R.I. for 2 years awarded to the petitioner is reduced to R.I. to 1 year R.I. The fine clause as well as the default sentence as awarded by the trial Court shall remain intact.

With the above modification in the order of sentence, the revision petition stands disposed off.

February 13, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No