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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3003-2018

Date of Decision:- January 15, 2019

Kuldeep Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Inderjit Sharma, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG,
for the respondent State.

Mr. G.S.Sandhu, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction and order of sentence dated 06.03.2017 passed by learned Judicial Magistrate Ist Class, Gurdaspur whereby the revisionist was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, "**the Act**") and sentenced to undergo Rigorous Imprisonment for a period of two years and to pay a fine of Rs. 2,500/- and in default of payment of fine to further undergo RI for a period of 30 days.

2. The appeal filed by the revisionist was dismissed by learned Additional Sessions Judge, Gurdaspur vide judgment dated 27.08.2018.

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3. Facts relevant for the purpose of decision of present revision petition; that respondent herein had preferred a complaint under Section 138 of the Act on the ground that Kuldeep Singh, present petitioner took loan to the tune of Rs. 6,50,000/- from the complainant-Company for purchase of vehicle and agreed to repay the same as per agreed schedule. Thereafter since the accused defaulted in repaying the loan amount and failed to discharge his liability, he issued a cheque bearing No. 866153 dated 05.05.2015 for a sum of Rs.6,50,000/- in favour of the complainant. On presentation, the said cheque was returned by the Bank with the remarks "Funds Insufficient". The complainant issued a legal notice, but despite that, the petitioner did not make the payment and subsequently complaint was filed before the Court of Magistrate.

4. Learned Magistrate completed the trial, including framing of charge against the accused, recording of evidence and examining the accused under Section 313 Cr.P.C., and after considering the prosecution evidence and defence evidence held the present revisionist guilty and convicted and sentenced under Section 138 of the Act.

5. Appeal preferred by the revisionist was dismissed by learned Additional Sessions Judge vide judgment dated 27.08.2018 and as such the present revision petition before this Court.

6. During the pendency of the proceedings before this Court, on 6.9.2018, while praying for suspension of sentence of the petitioner, it was contended by learned counsel representing the petitioner that he would make necessary arrangement within one week for a sum of Rs.3,00,000/- and the rest of the amount would be cleared at the earliest.

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On the basis of said statement, the sentence of the petitioner was ordered to be suspended subject to deposit of demand draft of Rs.3,00,000/- within a period of one week. Thereafter time was sought for making the payment on 28.09.2018, 05.12.2018 and 14.01.2019, but the payment was not made.

7. Learned counsel for the respondents contended that the judgment of conviction and order of sentence passed by the Courts below do not warrant any interference by this Court especially in view of the conduct of the petitioner.

8. Having considered the submissions made by learned counsel for the parties and the facts and circumstances of this case, this Court is of the considered view that learned trial Magistrate had placed reliance upon the statement of the complainant wherein the complainant made the statement in accordance with the complaint. To the contrary, the defence version was found to be self-contradictory as defence plea taken by the accused was that the cheque in question was never issued by the complainant in discharge of legal liability and the other contradictory plea was that cheque was issued a security cheque at the time of sanctioning of the loan, meaning thereby that the advancement of loan was admitted by the accused and the case of the complainant is that the company is dealing in the business of finance and loan was advanced to the present petitioner. Thereafter, he had issued cheque and same was dishonoured and as such, the complaint was filed. All these pleas have been carefully scrutinized by learned trial Judge and the judgment of conviction was recorded by learned trial Magistrate and thereafter appeal was dismissed.

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More so, perusal of the record shows that despite granting sufficient time to the petitioner to discharge his liability by this Court as is clear from the orders dated 06.09.2018, the petitioner has not paid the due amount to the complainant.

9. In view of the above, there is no merit in the present revision petition and the same stands dismissed.

January 15, 2019	(SHEKHER DHAWAN)
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Speaking/Reasoned	Yes
Reportable	Yes