

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3926 of 2018

DATE OF DECISION: SEPTEMBER 11, 2019

LEELA SINGH

...PETITIONER

VERSUS

JATINDER MOHAN

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. MADHUR GOYAL, ADVOCATE FOR THE PETITIONER.
MR. SIDDHARTH GUPTA, ADVOCATE FOR THE RESPONDENT.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred the revision petition challenging the Appellate Court judgment dated 22.10.2018 passed by the learned Addl. Sessions Judge, Mansa, whereby the judgment of conviction and order of sentence dated 1.10.2014, passed by the Judicial Magistrate 1st Class, Budhlada, against the petitioner was upheld.

The prosecution case arises from Complaint No.05 of 16.03.2011 under Sections 138 to 142 of Negotiable Instruments Act. The petitioner was awarded 1 year rigorous imprisonment along with fine of ₹5000/- for the offence punishable under Section 138 of Negotiable Instruments Act and in default of payment of fine, to undergo 1 month rigorous imprisonment.

The facts leading to the revision petition is noticed below.

Upon a statement given by Jatinder Mohan, above complaint was registered wherein it was alleged that he was the proprietor of a firm at Bareta in the name and style of M/s Atma Ram Ram Saroop Commission

Agents, Bareta. Convict Leela Singh borrowed a sum of 3,80,000/- from him on interest @ 18% vide cheque No.404922 dated 2.3.2010 drawn at Punjab National Bank, Bareta and in exchange, handed over a cheque in favour of complainant's firm bearing No.761716 dated 2.2.2011 for a sum of ₹4,42,700/- drawn at Punjab National Bank, Bareta. The said cheque was presented at State Bank of India, Bareta on 2.2.2011, for its realization, but the same got dishonoured with the remarks "insufficient fund". The complainant served a legal notice dated 16.2.2011 upon the accused, but the accused failed to pay any heed to the said legal notice and also did not return the said amount.

The accused was summoned to face trial under Section 138 of Negotiable Instruments Act, who, on appearance, pleaded not guilty and claimed trial. He further stated that a false case has been foisted upon him. In his defence, the accused examined Sunil Kumar Garg, Deputy Manager, PNB Bank, Bareta as DW1, Gurmukh Singh as DW2 and Jarnail Singh as DW3.

The trial Court after examining the oral as well as documentary evidence available on record and disbelieving the submissions made by the accused, proceeded to hold him guilty and imposed the sentence as noticed above. Dissatisfied with the judgment of conviction and order of sentence dated 1.10.2014 passed by Judicial Magistrate 1st Class, Budhlada, an appeal was carried by the convict bearing Appeal No.35 of 27.10.2014 which was dismissed by the learned Additional Sessions Judge, Mansa.

Learned counsel for the petitioner prays that he does not press his challenge to the conviction part in the impugned judgment and confines

his prayer only for reduction of sentence of the convict.

Learned counsel for the petitioner contends that the petitioner has undergone approximately 8 months out of the total sentence of 1 year rigorous imprisonment. It has been further contended that the petitioner is facing the agony of trial and appeal for the last 8 years, since the matter pertains to the year 2011. Lastly, it has been prayed that keeping in view the age and the period of sentence already undergone by the petitioner, a lenient view may be taken against him and his sentence may be reduced to to the period already undergone by him.

Learned counsel for the State has not disputed the period already undergone by the petitioner as contended by learned counsel for the petitioner.

After hearing learned counsel for the parties, this Court finds that the petitioner has suffered the agony of trial and appeal for the last almost 8 years. The petitioner is stated to be 60 years of age. Keeping in view the above, the ends of justice would be met if sentence imposed upon the petitioner-convict is reduced to the period already undergone by him.

Resultantly, the conviction recorded by learned trial Court and upheld by the appellate Court is maintained. However, the order of sentence is modified and reduced to the period already undergone by the petitioner. He be released forthwith, if his custody is not required in any other case.

Revision petition stands disposed off.

September 11, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No