

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

CRR-618-2018 (O&M)

Date of decision : 04.10.2019

Gulab Singh

...Petitioner

Versus

Shri Ram Transport Finance Co. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Kumar, Advocate for the petitioner.

Mr. Gaurav Sharma, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Petitioner has been convicted for an offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of 4 months and to pay compensation of ₹1,30,000/-.

Petitioner had got a vehicle financed from the respondent-company but failed to maintain financial discipline. The vehicle in question was repossessed and has already been sold. On 02.05.2018, petitioner was granted interim bail while passing following order:-

“On 17.02.2018, following order was passed by this Court:-

“Learned counsel for the petitioner inter alia contends that cheque in question was a security cheque in the context of purchase of vehicle on

hypothecation basis. Legal notice was not signed by any authority. The applicant has been sentenced to undergo rigorous imprisonment for four months and to pay compensation of Rs.1,30,000/-.

Notice of motion for 05.03.2018.

Notice re: suspension of sentence as well.”

Perusal of order dated 23.04.2018 passed by this Court would show that the process fee which was filed on 05.03.2018 was not given effect in time. Thereafter fresh process fee was filed. As per office report, respondent No.1 is duly served.

Learned counsel for the petitioner submits that the petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of 4 months under Section 138 of the Negotiable Instruments Act and to pay compensation to the tune of Rs.1,30,000/- in terms of Section 357(3) Cr.P.C., along with default mechanism.

Learned counsel further submits that out of total sentence of 4 months, the petitioner has already undergone more than 3 months of actual sentence as on date.

Learned counsel appearing on behalf of respondent No.1 seeks time to address arguments.

Adjourned to 11.07.2018.

In the meanwhile, petitioner is ordered to be released on interim bail on his furnishing adequate bail bonds/surety bonds subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate Chandigarh.”

Learned counsel for the petitioner submits that sentence awarded be reduced to undergone in the facts and circumstances of the present case.

This Court has considered the submissions.

Keeping in view the fact that the vehicle which was got financed has already been repossessed and sold by the Finance Company and the petitioner has already undergone actual sentence of 3 months out of total period of 4 months as well as he has faced protracted criminal prosecution for the last 6 years, therefore, the sentence awarded is reduced to the period already undergone.

In view of the above, the present petition is disposed of.

04.10.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No