

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-750-2018 (O&M)
Date of Decision: 17.12.2019

Parshotam Singh

.....Petitioner

Versus

Punjab Agro Industries Corporation Ltd.

....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Deepinder Brar, Advocate, for the petitioner.

Mr. Somesh Gupta, Advocate, for the respondent.

Harnaresh Singh Gill, J.

CRM-M-8867-2018 is allowed and the document
Annexure A.1 is taken on record.

The petitioner was tried for committing the offences punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'). Vide judgment and order dated 9.5.2014, learned Sub Divisional Judicial Magistrate, Batala, held the petitioner guilty for the aforesaid offence and sentenced him to undergo RI for two years and to pay a fine of Rs.5000/- and, in default of payment of fine, to further undergo RI for one month.

The appeal preferred by the petitioner was dismissed by the learned Additional Sessions Judge, Gurdaspur, vide order dated 9.2.2018.

Still aggrieved, the petitioner has filed the present revision petition.

At the very outset, learned counsel appearing for the petitioner confines his arguments to the sentence part only. It is contended that out of the total sentence of two years, the petitioner has, by now, already undergone 1 year and 10 month. Still further, it is argued that on the same set of allegations, the dispute between the parties was referred to the Arbitration. The Arbitrator had passed an award thereby awarding an amount of Rs.1,95,64,960/- to the respondent-complainant. Against the said award dated 20.1.2006, an appeal was filed before the learned District Judge, Guradaspur and vide order dated 8.10.2009, the learned District Judge, had partly set aside the order to the extent of award of interest @ 21% per annum with effect from 1.12.2004 till the date of award i.e. 20.1.2006 and further interest @ 18% per annum on the total sum from the date of award till the date of payment was set aside. It is yet further contended that against the order dated 8.10.2009, the petitioner has filed FAO No. 2957-2012, which is pending adjudication before this Court.

Though the findings regarding the guilt of the petitioner recorded by the Courts below were not challenged by the learned counsel for the petitioner, yet after going the judgments and order passed by the trial Court, I find that both the Courts below on the basis of cogent and convincing evidence, have rightly held the petitioner guilty and sentenced him accordingly. Thus, while affirming the said findings, the

conviction of the petitioner under Section 138 of the Act, is upheld.

Coming to the sentence part, learned counsel for the respondent does not dispute the factum of passing of an arbitral award regarding the dispute between the parties and the pendency of FAO-2957-2012 before this Court. The dispute in the present proceedings being part of the arbitral proceedings, is also not disputed.

Taking into consideration the aforesaid factual position and further taking into account that the petitioner has already undergone a period of 1 year 10 months out of the total sentence of two years, I deem it appropriate to grant the prayer of the learned counsel for the petitioner to reduce the sentence imposed upon the petitioner to the period already undergone by him.

Resultantly, while affirming the conviction of the petitioner under Section 138 of the Act, the sentence imposed upon the petitioner is reduced to the period already undergone by him. However, the fine imposed by the trial Court shall remain intact. The petitioner be released forthwith, if not wanted in any other case.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

17.12.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No