

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

203

CRR-1057-2008

DATE OF DECISION: 09.05.2019

R.P.SINGH

... Petitioner(s)

Versus

B.L.PANDER AND ANR.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Amrit Singla, Advocate for the petitioner(s).

Mr. Pankaj Maini, Advocate for respondent No.1.

Mr. D.R. Singla, DAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the judgments of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the Act') and sentenced to undergo simple imprisonment for a period of 1 year and to pay a fine of Rs.2,000/-.

Learned counsel for the petitioner contends that the allegations against the petitioner are that the cheque bearing No.0027804 issued by him on 27.07.2000 for a sum of Rs.25,000/- was dishonoured due to insufficiency of funds. He has handed over a demand draft for a sum of Rs.68,000/- to the counsel for the complainant in full and final settlement which includes the principal amount and the amount of interest at the rate of 9% per annum. He further contends that he is not challenging the conviction of the petitioner and would confine his arguments to reduction of the sentence already undergone by him. He also contends that the petitioner is about 60 years of age and has undergone an actual sentence of 10 days. He also contends that the offence under Section 138 of the Negotiable Instruments Act, 1881 is

compoundable even at this stage in terms of the ratio of the judgment of the Supreme Court in case of ***Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663.***

Heard.

Learned counsel for the petitioner has handed over the demand draft of Rs.68,000/- to the counsel for the complainant, which includes principal amount as well as the amount of interest at the rate of 9% per annum in terms of the settlement between the parties. The liability under the Act is primarily civil in nature which in terms of the Act has been made a criminal offence. The petitioner has faced protracted criminal proceedings for over 14 years. Therefore, I am of the view that it would be just and equitable if the sentence of the petitioner is reduced to the period already undergone.

Therefore, while maintaining the conviction, sentence of the petitioner is reduced to the period already undergone by him.

With this modification, the petition stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

09.05.2019.

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No