

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

**CRM-M-40972-2019
Date of decision: 25.11.2019**

Narinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

None for respondent No. 2.

Mr. Pradeep Singh, Advocate
for respondent No. 3.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing the orders dated 31.01.2019 and 15.02.2019 (Annexures P-4 & P-5), passed by the Sessions Judge, Jalandhar in Complaint No. NACT/684/2015 dated 20.03.2015 titled as ***Pargat Singh vs. Gurbinder Singh.***

Brief facts of the case are that respondent No. 2/complainant Pargat Singh had filed a complaint against respondent No. 3 Gurbinder Singh under Section 138 of the N.I. Act on account of dishonouring of a cheque, in which respondent No. 3 was held guilty and convicted under Section 138 of the N.I. Act, vide judgment dated 05.01.2018, passed by the JMFC, Jalandhar.

During the pendency of the appeal, filed by respondent No. 3 against the aforesaid judgment of conviction, the petitioner stood surety as

the sentence of respondent No. 3 was suspended by the lower appellate Court on furnishing personal bond of Rs. 30,000/- with one surety in the like amount, vide order dated 11.01.2018 (Annexure P-1).

Learned counsel for the petitioner further submitted that later on, respondent No. 3 absented from the Court proceedings and vide order dated 31.01.2019, the bail/surety bonds were forfeited and the petitioner was directed to pay the penalty amount equivalent to the surety of Rs. 30,000/-.

It is further submitted that thereafter on 15.02.2019, respondent No. 2 suffered a statement that he has effected compromise with respondent No. 3 regarding the cheque amount and he has already received Rs. 54,000/- in cash and respondent No. 3 will make the balance payment after a period of 25 days. The case was adjourned and on 07.03.2019, on the statement of respondent No. 2/complainant that he has received the entire cheque amount and nothing is pending against respondent No. 3, the appeal was allowed and impugned judgment dated 05.01.2018, passed by the trial Court was set aside.

Learned counsel for the petitioner further submitted that in the meantime, while initiating the proceedings against the petitioner, the lower appellate Court had passed the impugned order dated 15.02.2019 for recovery of Rs. 30,000/- by attaching the property of the petitioner as he was the surety and a further direction was issued to the Collector, Jalandhar for recovery of the penalty amount.

Learned counsel for the petitioner further submitted that in pursuance to notice of motion of motion order dated 14.10.2019, the petitioner has already deposited an amount of Rs. 3,000/- with lower

appellate Court.

Learned counsel for the petitioner has argued that petitioner is a poor person and he has stood surety just to help the accused/respondent No. 3 in the main case, who had subsequently paid the entire amount to respondent No. 2/complainant and the complaint filed under Section 138 of the N.I. Act was later on dismissed by the lower appellate Court as the cheque amount was received by the complainant.

Learned State counsel has not disputed the factual position.

Learned counsel for respondent No. 3 has also not disputed the factual position.

After hearing learned counsel for the parties and considering the fact that the main litigation between respondent No. 2 and respondent No. 3 regarding payment of the cheque amount already stands settled as noticed above, I deem it appropriate to reduce the penalty amount from Rs. 30,000/- to Rs. 3,000/-, which has already been deposited by the petitioner. Ordered accordingly.

Petition stands disposed of.

25.11.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No