

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53196-2019(O&M)
Date of decision: 12.12.2019

Harjinder Singh

.....Petitioner

Versus

Mohinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.P.S.Paul, Advocate for the petitioner

Mr. G.S.Brar, Advocate for the respondent

ANIL KSHETARPAL, J. (ORAL)

Present petition under Section 482 Cr.P.C has been filed for quashing of order dated 6.7.2017 in criminal complaint titled as '*Mohinder Singh vs. Harjinder Singh*'. Respondent filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner resulting in conviction. In appeal filed, the case was disposed of by the Court of Sessions vide order dated 2.5.2016, operative part whereof reads as under:-

“11. As regards the sentence part of the impugned judgment, the complainant has come present and made a statement that he has arrived at compromise with accused, according to which, accused has paid him Rs.20,000/- in cash today and has undertaken to make payment of remaining amount of Rs.1,58,000/- upto 2.6.2016 and thus, he has no objection if the appellant/convict is released on probation. While making

separate statement, appellant Harjinder Singh has also made a request to give him benefit of probation on the basis of compromise and also on the basis of undertaking that he shall pay the remaining amount of Rs.1,58,000/- upto 2.6.2016 failing which he shall appear to undergo the sentence. The appellant is not a previous convict. He has faced the agony of trial from the year 2013 and thus, I deem it a fit case where one chance must be given to him to reform himself, especially when the complainant has arrived at compromise with him and accused has agreed to pay the amount of dis-honoured cheque to the complainant in the aforesaid manner. Hence, order of sentence passed by the learned trial court is set aside and appellant is ordered to be released on probation on his furnishing personal bond in the sum of Rs.1,00,000/- with an undertaking to keep peace and tranquility for a period of six months and will not commit such like offence again during this period and further with a condition that he shall pay remaining amount of Rs.1,58,000/- to complainant Mohinder Singh before 2.6.2016, failing which he shall be called upon to receive the sentence. The amount of fine if deposited before the learned Trial Court, shall be considered as costs of litigation. With this modification in the sentence part of the judgment of learned trial Court, the present appeal is dismissed. Trial court record be sent back along with copy of this

judgment. Appeal file be consigned to Record Room.”

Learned counsel for the petitioner contends that the petitioner due to some circumstances beyond his control could not repay the amount within the time prescribed resulting in re-filing of the petition and issuance of direction by the Court of Sessions to the Chief Judicial Magistrate to proceed against the petitioner.

Through this petition, the petitioner claims that the entire defaulted amount stands paid and petitioner and the respondent have settled the matter.

Sh. G.S.Brar, Advocate has put in appearance on behalf of the respondent and admits the aforesaid fact.

Keeping in view the facts of the case, the present petition is disposed of by directing the petitioner to move appropriate application before the Court of Sessions seeking extension of time, which shall be considered by the Court sympathetically, keeping in mind no objection from the respondent.

Till the Court of Sessions decides the application, if any, filed within a period of 15 days from today, arrest of the petitioner shall remain stayed.

12.12. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No