

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRR-3979-2018

Date of Decision : March 26, 2019

Kuldeep Singh Petitioner

Versus

The Fazilka Central Cooperative Bank
.... Respondent

2. CRR-3980-2018

Kuldeep Singh Petitioner

Versus

The Fazilka Central Cooperative Bank
.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Ashish Pal Kaushal, Advocate,
for Mr. G.S. Sandhu, Advocate,
for the petitioner.

Mr. Dinesh Chaudhary, Advocate,
for respondent – Bank.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
for respondent-State .

SHEKHER DHAWAN, J.

For the reasons mentioned in the applications, delay of 378
days in filing the above mentioned revision petitions is condoned.

CRM-43537-2018 in CRR No. 3979 of 2018 and CRM-43540-
2018 in CRR-3980-2018 stands disposed of.

Main Revisions

1 As common questions of law and facts are involved in the above titled two revision petitions, pertaining to offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, "**the Act**"), with the consent of the parties, the same are taken up together and are being disposed of by this common judgment.

2. CRR-3979-2018 is directed against the judgment of conviction and order of sentence dated 09.09.2016 passed by learned Judicial Magistrate Ist Class, Abohar whereby the revisionist was convicted under Section 138 of the Act and sentenced to undergo Simple Imprisonment for a period of Six months and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo imprisonment for fifteen days.

3. CRR-3980-2018 is directed against the judgment of conviction and order of sentence dated 09.09.2016 passed by learned Judicial Magistrate Ist Class, Abohar whereby the revisionist was convicted under Section 138 of the Act and sentenced to undergo Simple Imprisonment for a period of Six months and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo imprisonment for fifteen days.

4. The appeals filed by the revisionist were dismissed by learned Additional Sessions Judge, Fazilka vide judgment dated 25.08.2017.

5. At the commencement of hearing, learned counsel for the petitioner – Kuldeep Singh contended that one Paramjeet Singh took vehicle loan from the respondent - Fazilka Central Cooperative Bank (for short, "the respondent-bank") and the present petitioner stood guarantor for the same. In discharge of his partial liability, the petitioner issued two cheques to the tune of Rs.29,500/- and Rs.30,000/- in favour of the

respondent-bank, which were dishonoured on presentation due to insufficient funds. After issuance of legal notice, two separate complaints were filed by the respondent bank wherein the petitioner was convicted and sentenced as depicted in Para Nos. 2 and 3 above.

6. Learned counsel for the petitioner contended that he does not challenge the judgments of conviction and a lenient view on the point of sentence be taken as the entire loan amount including interest (upto date i.e. 03.01.2019) has already been repaid to the respondent-bank, as is clear from certificates dated 03.01.2019. He further contended that in these circumstances, the sentence awarded to the petitioner in both these above mentioned cases be ordered to run concurrently and the petitioner, who is in custody, be released as he has already undergone total sentence of 5 months and 22 days as per custody certificate dated 25.03.2019 in CRR No. 3979 of 2018.

7. Learned counsel representing respondent- Bank has affirmed the factum of repayment of “entire loan amount including interest upto date as on 03.01.2019.”

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that learned trial Judge has already appreciated the evidence in its perspective manner and the said findings were rightly affirmed by the Appellate Court. More so, learned counsel for the petitioner does not challenge the judgment of conviction in both these revision petitions. No interference is called for in the findings recorded by learned trial Judge and the present revision petitions stand dismissed.

9. As regard to the prayer made by learned counsel for the

petitioner that the sentence awarded to the petitioner in both these above mentioned cases be ordered to run concurrently quantum of sentence, this Court is certainly inclined to accept the said prayer in view of the fact that the entire loan amount including interest (upto date i.e. 03.01.2019) has already been repaid to the respondent-bank in both these cases, as is clear from certificates dated 03.01.2019 and the sentence awarded to the petitioner in both these cases is ordered to run concurrently.

10. In **V.K. Bansal Vs. State of Haryana and another**, (2013) 7 **SCC 211**, Hon`ble Apex Court while dealing with matter under the Negotiable Instruments Act, 1881 observed that the Courts should exercise discretion to direct sentences to run concurrently judicially and only substantive sentences can be directed to run concurrently and sentences awarded in default of payment of fine/compensation cannot be directed to run concurrent.

11. In the present cases, as the cheque amount has already been paid and it is not a case where compensation was awarded, the sentence awarded to the petitioner in both these cases is ordered to run concurrently. Resultantly, the present revision petitions stand disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

March 26, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes