

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-402-2020 (O&M)

DATE OF DECISION: AUGUST 25, 2020

VIKRAM BEDI

...PETITIONER

VERSUS

GURMEET SINGH & ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. R.S.MAMLI, ADVOCATE FOR THE PETITIONER.
MR. PRINCE GOYAL, ADVOCATE FOR RESPONDENT NO.1.
MR. LUVINDER SINGH SOFAT, AAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred the revision petition challenging the Appellate Court judgment dated 4.9.2019, passed by the learned Addl. Sessions Judge, Fazilka, whereby the judgment of conviction and order of sentence dated 21.12.2017, passed by the trial Court, sentencing the petitioner to undergo Rigorous Imprisonment for 1 year and to pay compensation of Rs.2,70,000/- to the complainant was upheld.

The prosecution case arises from a complaint instituted by Gurmeet Singh to the effect that on 28.6.2015, the petitioner took friendly loan of Rs.2,50,000/- from him and in order to return the said amount issued a cheque No.000015 dated 20.7.2015 drawn on Bank of India, Fatehabad (Chandigarh) Branch, Fatehabad to the complainant. On 7.8.2015, the said cheque was presented by the complainant for encashment, but the same got dishonored and returned unpaid to the complainant vide memo dated 7.8.2015, with remarks "Insufficient Funds". The accused was apprised of

the matter, but he did not pay any heed. Thereafter, a legal notice dated 14.8.2015 was issued to the accused to pay the cheque amount, but the petitioner did not return the said amount. Therefore, feeling aggrieved, the present complaint was filed.

Taking cognizance of the complaint, the trial Court summoned the accused to face trial under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') to which he pleaded not guilty and claimed trial.

The trial Court after examining the material on record proceeded to hold the accused guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and imposed the sentence as noticed above.

Dissatisfied with the judgment of conviction and order of sentence dated 21.12.2017, passed by Judicial Magistrate Ist Class, Fazilka, an appeal was carried by the convict bearing Appeal No.47 dated 20.1.2018. The appellate Court while holding that the complainant has proved his case beyond reasonable doubt, dismissed the appeal filed by the petitioner.

Hence the present revision petition.

Learned counsel appearing on behalf of the petitioner was heard and after arguing for sometime, he did not press his challenge to the conviction part in the impugned judgment and confined his prayer for reduction of sentence alone.

Learned counsel for the petitioner contends that the petitioner is first offender and neither there is any case pending against him nor he was

previously convicted in any other case. It is contended that a lenient view may be taken against the petitioner as he has already undergone more than 8 months out of the total awarded sentence of 1 year, therefore, he be released on probation or in the alternative his sentence may be reduced to the period already undergone by him.

Learned counsel for the State has referred to the custody certificate dated 24.8.2020, filed by Iqbal Singh Brar, Deputy Superintendent, Central Jail, Ferozepur, to contend that the petitioner has undergone a period of 8 months and 24 days out of the total sentence of 1 year, pursuant to the impugned judgment of conviction and order of sentence. It is not disputed that there is no other case against the petitioner.

After hearing learned counsel for the parties, this Court feels that since the incident pertains to the year 2017 and the petitioner is facing the agony of trial and appeal for the last more than 2½ years and is in custody for the last almost 9 months out of the total sentence of 1 year, therefore, the ends of justice would be met if the sentence of the petitioner is reduced to the period already undergone by him.

Resultantly, while maintaining the conviction of the petitioner as awarded by the trial Court and affirmed by the appellate Court, the sentence of 1 year rigorous imprisonment awarded to the petitioner is modified and reduced to the one already undergone by him. However, the compensation as awarded by the trial Court and upheld by the appellate Court shall remain intact.

The petitioner is in custody. He be set at liberty forthwith, if his custody is not required in connection with any other case.

Revision petition is disposed off.

August 25, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No