

NIRMAL SINGH

...PETITIONER

VERSUS

M/S JIWAN RAM, RAM PARKASH AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ramneek Vasudeva, Advocate for the petitioner.

Mr. Akshay Kumar Goel, Advocate for respondent No.1.

Ms. Sakshi Bakshi, AAG, Punjab.

VIVEK PURI, J. (ORAL)

The present complaint has been lodged by the respondent/complainant against the petitioner/accused on the allegations that in discharge of his legally enforceable liability, the accused had issued a cheque bearing No.474587 for a sum of Rs. 12 lacs drawn on Oriental Bank of Commerce, Branch Kurali in favour of the complainant. The cheque on presentation was dishonored with the remarks "insufficient funds" and after issuance of the statutory notice the complaint has been instituted.

On appearance, the substance of accusation was stated to the accused to which he pleaded not guilty and claimed trial. The complaint has examined himself and the bank officials besides producing documentary evidence. The statement of the accused under Section 313 Cr.P.C. was recorded and he has also examined one witness in the defence evidence.

The petitioner was convicted under Section 138 of the Negotiable Instruments Act and sentence to undergo simple imprisonment for 01 year and to pay a fine of Rs. 5,000/- in default whereupon to further undergo simple imprisonment for a period of 15 days.

judgment dated 14.02.2018 and the same has been dismissed vide judgment dated 07.05.2019 by the learned Additional Sessions Judge, Rupnagar

During the course of hearing, learned counsel for the petitioner has not assailed the judgment of the conviction as passed by the Courts below and has only restricted his prayer for leniency in the matter of sentence.

In the case, there is nothing to suggest that the cheque in question was forged in any manner and the same has not been issued in discharge of the legally enforceable liability and furthermore it was dishonored as there were insufficient funds to honour the amount of cheque. As such, the judgment of conviction has been correctly recorded by the Courts below on the basis of the evidence establishing the guilt of the petitioner beyond the shadow of reasonable doubt.

However, with regard to the quantum of sentence, the custody certificate has been placed on record which indicates that he has already undergone imprisonment upto 09 months and 18 days. It has been stated that the petitioner is an aged man of 70 years. There is nothing to suggest that he has been previously convicted in any other case or any criminal case has been registered or pending against him. In such circumstances, some further leniency can be extended to the petitioner in the quantum of sentence.

For the aforesaid reasons, the judgment of conviction as recorded by the Courts below are upheld with partial modification in the quantum of sentence of imprisonment imposed upon the petitioner and the same is reduced to the period already undergone without any alteration with regard to the amount of the fine and the default sentence imposed upon him.

The petition stands disposed of in the aforesaid terms.

12.03.2020
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(VIVEK PURI)
JUDGE

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