

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2381 of 2019 (O&M)

DATE OF DECISION: JANUARY 8, 2020

SURINDER SINGH

...PETITIONER

VERSUS

LAKHWINDER PAL BABBAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MS. ARTI KAUR, ADVOCATE FOR THE PETITIONER.
NONE FOR THE RESPONDENT.

MANOJ BAJAJ, J.(ORAL)

CRM-28747-2019

This is an application for condonation of delay of 126 days in filing the present revision petition.

Notice of the application issued to the respondent was duly served, but none has appeared on his behalf.

For the reasons mentioned in the application, the same is allowed and the delay in filing the revision petition is condoned.

CRR-2381-2019

Petitioner Surinder Singh has preferred the present revision petition against the judgment dated 8.2.2019, passed by the Addl. Sessions Judge, Shaheed Bhagat Singh Nagar whereby the judgement of conviction and order of sentence dated 3.11.2016 passed by trial Court in a complaint case under Section 138 Negotiable Instruments Act, 1881 was affirmed.

The petitioner was sentenced to undergo rigorous imprisonment for 2 years alongwith fine of ₹5000/- and in default of payment of fine, to further undergo a period of simple imprisonment for 30 days.

The petitioner was prosecuted on the basis of a complaint made by Lakhwinder Pal Babbar, wherein it was alleged that the accused-petitioner in order to discharge the liability of ₹3,00,000/- towards him, issued a cheque bearing No.078076 dated 30.7.2014 drawn at State Bank of Patiala, Branch Office, Nawanshahar in his favour. On presentation of the cheque on 7.9.2014 for encashment, it was returned back with the remarks “Insufficient Funds” vide memo dated 8.9.2014. Thereafter, a statutory legal notice dated 4.10.2014 was also served upon the accused which was neither replied to nor the amount demanded was paid.

After examining the preliminary evidence, the trial Court summoned the accused to face trial for the offence under Section 138 Negotiable Instruments Act, 1881. After appearance of the accused, the trial commenced and on completion of evidence led by the complainant, statement of accused under Section 313 Cr.P.C. was recorded, wherein he pleaded innocence. However, no evidence was adduced by accused in his defence.

The trial Court after considering the material and evidence on record proceeded to convict the accused vide its judgement dated 3.11.2016 and imposed the sentence as noticed above.

Aggrieved against the aforesaid judgement of conviction and order of sentence, an appeal was carried by the convict before the Addl. Sessions Judge, Shaheed Bhagat Singh Nagar which was dismissed vide judgement dated 8.2.2019. It is against this judgement that the petitioner has now come up in revision.

Learned counsel for the petitioner contends that he does not

press his challenge to the conviction part and confines his prayer only for modification of sentence awarded to the petitioner by reducing it to the undergone period. He has contended that the petitioner is 50 years of age and is the sole bread winner of his family. He has further contended that out of the total sentence of 2 years, the petitioner has already undergone more than 11 months. It is prayed that keeping in view the above, a lenient view may be taken against the petitioner and his sentence may be modified to the one already undergone by him or in the alternative, it be suitably reduced.

Despite service, no one has appeared on behalf of the respondent-complainant.

With regard to sentence awarded to the petitioner, this Court feels that since the incident pertains to the year 2014 and the petitioner is facing the agony of trial and appeal for the last more than 5 years and is in custody for the last more than 11 months, therefore, the ends of justice would be met if the sentence of the petitioner is reduced to a 15 months from 2 years rigorous imprisonment.

Resultantly, while maintaining the conviction of the petitioner as awarded by the trial Court and affirmed by the appellate Court, the sentence of 2 years rigorous imprisonment awarded to the petitioner is reduced to 15 months. The fine amount and the default clause shall remain intact.

The petition is partly allowed.

January 8, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No