

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No. 574 of 2021

Date of Decision: 20.12.2021

Mohinder Soni

.....Petitioner

Vs.

State Bank of India and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Parvesh Sachdeva, Advocate,
for the petitioner.

Mr. Sumit Narang, Advocate,
for respondent no. 1-Bank.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioner challenges the judgment and order of sentence dated 21.08.2018 passed by the learned Addl. Chief Judicial Magistrate, Fazilka, by which he was convicted for the commission of an offence punishable under the provisions of Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo rigorous imprisonment of two years, with Rs.8,00,000/- ordered to be imposed as compensation. He also challenges the judgment dated 24.02.2021 passed by the learned Sessions Judge, Fazilka, whereby his appeal against that judgment of conviction and order of sentence, has been dismissed.

On 08.09.2021, the following order had been passed by this court:-

“Case heard via video conferencing.

On June 30, 2021 notice of motion having been issued and operation of the judgment of the learned courts below having been stayed by this court, in view of the fact that the counsel for the petitioner had submitted that the matter had been settled between the petitioner and the respondent bank, despite which the appeal filed by the petitioner was dismissed, today the report of the Registry is that the counsel for the petitioner did not even file the process fee.

On that ground alone actually the interim order deserves to be vacated today itself.

However, granting counsel for the petitioner one opportunity to serve the respondent bank, by dasti process only now, returnable on 20.09.2021, fresh notice be issued (dasti only).

If respondent no.1 is not shown to be served of the notice issued on that date also, the interim order would be vacated.

Interim order to continue till that date only and specifically.

To be shown in the urgent motion list.”

Today, an affidavit dated 20.12.2021 itself, shown to be executed by the Branch Manager, State Bank of India, Branch Abhun, District Fazilka, has been filed in court by learned counsel appearing for the respondent-bank, in which it is stated that the loan amount of the petitioner “stands settled” for an amount of Rs. 4,92,000/-, with no dues remaining to be paid by him.

The affidavit is ordered to be taken on record.

That being so, the complaint out of which the proceedings arise being one filed by the respondent-bank under the provisions of Section 138 of the Negotiable Instruments Act, 1881, and the said offence being a compoundable offence in terms of Section 147 thereof, the petition is allowed with the impugned judgments and orders of the learned courts below, convicting the petitioner for the commission of such offence and sentencing him to two years rigorous imprisonment, and further directing him to pay the compensation of Rs. 8,00,000/-, are set aside; with the petitioner acquitted of the charges framed against him.

December 20, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.