IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1501 of 2008 (O&M)
Date of Decision: 03-12-2021.

Sat Pal Singh Sodhi

...Revisionist-Petitioner

Versus

M/s Jaswalsons Investment & Finance Pvt. Ltd. & Another

...Respondents

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. R.K.Arora Advocate,
for the revisionist-petitioner.

Mr. K.S.Dhillon, Advocate,
for respondent No.1.

Mr. Sukhbeer Singh, AAG, Punjab,
for respondent No.2-State.

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MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment and order on sentence dated 05.10.2007 passed by the Judicial Magistrate Ist Class, Jalandhar (for short “the trial Court”) whereby the revisionist-petitioner (for short “the petitioner”) was held guilty for committing the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short “the NI Act”) and was sentenced to undergo Rigorous Imprisonment for a period of two years and to pay the fine of Rs.5000/- and also the judgment dated 17.07.2008 handed down by the Additional Sessions Judge, Jalandhar, (for short “the Appellate Court”) dismissing the Criminal Appeal preferred by him to assail the said judgment and order on sentence, he (petitioner) has chosen to prefer the instant revision petition.

2. Bereft of unnecessary details, the allegations, as levelled by complainant-respondent No.1 (here-in-after to be referred as "the complainant") against the petitioner, are that he (petitioner) had raised a loan of Rs.5,40,000/- from the complainant vide two bank drafts dated 08.09.2004 and 10.02.2005 worth Rs.2,30,000/- and Rs.3,10,000/- respectively. He issued a cheque for an amount of Rs.5,50,000/- to discharge his legal liability qua the repayment of the said loan amount to the complainant. However, when presented in the concerned Bank, the said cheque was dishonoured due to "Insufficient Funds" in the relevant bank account. Then, the complainant served a legal notice to the petitioner in this regard but despite that, he failed to pay the above-said amount.

3. Thereafter, the complainant preferred a Complaint Case against the petitioner under Section 138 of the NI Act. Vide the impugned judgment and order on sentence dated 05.10.2007, the trial Court held the petitioner guilty for committing the offence under the above-said provisions and awarded the afore-detailed punishment to him and the Criminal Appeal, as filed by him (petitioner) to challenge the said judgment and order on sentence has also been dismissed by the Appellate Court vide the impugned judgment dated 17.07.2008.

4. I have heard learned counsel for the petitioner as well as learned counsel for respondent No.1-complainant and learned State counsel for respondent No.2, in the present revision petition and have also perused the record thoroughly.

5. Learned counsel for the petitioner has contended that the cheque in question had not been issued by the petitioner towards the

discharge of any legal liability as alleged by the complainant and rather, it was given to the complainant as a security only and was blank at that time but the complainant misused the same and filed the Complaint Case by levelling false allegations therein against him (petitioner) and therefore, the impugned judgment as rendered by the Appellate Court as well as the judgment and order on sentence as passed by the trial Court are not legally sustainable and are liable to be set aside. He has further contended that even otherwise, the substantive sentence awarded to the petitioner is quite a harsh one as the same is the maximum punishment provided for the said offence.

6. Per-contra, learned counsel for the complainant (respondent No.1) as well as learned State counsel have argued that both the Courts below have appreciated the merits of the case in the right perspective and the impugned judgements and order on sentence are perfectly legal.

7. As categorically observed by learned trial Court in Para No.9 of the impugned judgment dated 05.10.2007, the petitioner had no where stated that the cheque in question did not bear his signatures. Even the Appellate Court has also held in Para No.13 of the impugned judgment dated 17.07.2008 that the accused, i.e the present petitioner, had failed to prove that the signatures on the said cheque were forged. Moreover, the loan amount had been given to the petitioner vide two Demand Drafts. Therefore, it does not lie in his mouth to allege/claim that the cheque in question had not been issued by him in discharge of his legal liability to repay the said loan amount.

8. As a sequel to the fore-going discussion, it follows that so far as the conviction of the petitioner under the above-said provisions is

concerned, the impugned judgments, as handed down by both the Courts below, do not suffer from any illegality, infirmity, perversity or irregularity so as to warrant any interference by this Court.

9. However, keeping in view the fact that the petitioner has been facing the criminal proceedings since the year 2005 and has been awarded the substantive sentence of imprisonment for a period of two years which happens to be the maximum punishment provided under Section 138 of the NI Act, this Court is of the considered opinion that it would be in the fitness of the things if the above-said substantive sentence is reduced from two years to 18 months. Therefore, the order on sentence passed by the trial Court stands modified accordingly.

Resultantly, with the above-said modification in the order on sentence, the instant revision petition stands dismissed.

10. The petitioner, who was extended the relief of bail vide the order dated 22.09.2008 as passed by this Court, be taken into custody for completing/undergoing the remaining part of the sentence as modified above. Learned Chief Judicial Magistrate concerned is directed to make the necessary compliance of this order.

December 03, 2021. **(MEENAKSHI I. MEHTA)**
seema **JUDGE**

Whether speaking/reasoned?	*Yes*
Whether Reportable?	*Yes*

SEEMA SHARMA
2021.12.03 16:30
I attest to the accuracy of
this order