

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1024 of 2017 (O&M)

Date of Decision: 09-09-2021.

Vikas Sandhu

...Revisionist-Petitioner

Versus

Hardip Singh Aulakh & Others

...Respondents

(Heard through Video-Conferencing)

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

Present: Ms. Saloni Sharma, Advocate,
for the revisionist-petitioner.

Mr. Ashwani Arora, Advocate,
for respondents No.1 to 4.

Mr. Y.S.Rathore, Additional P.P. UT Chandigarh
for respondent No.5.

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MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment dated 18.02.2015 and the order on sentence dated 20.02.2015 passed by the Judicial Magistrate Ist Class, Chandigarh (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 the imprisonment for one year and also to pay the compensation to the tune of Rs.30 lacs and also the judgment dated 22.02.2017 handed down by the Additional Sessions Judge, Chandigarh (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. Shorn and short of unnecessary details, the allegations, as levelled by the complainants-respondents No.1 to 4 (for short “the complainants”) against the petitioner, are that he took the total amount of Rs.30 lacs from them while promising to arrange for their Visa and immigration to Canada by 01.03.2011 and also issued the receipt qua the said amount on 18.02.2011 with an undertaking to fulfil the said promise by the stipulated date but however, he failed to do the needful in this regard and also expressed his inability to repay the said amount and rather, he issued a cheque towards the refund of the same but when presented in the Bank, this cheque was dishonoured due to “insufficient funds” in the concerned bank account.

3. Thereafter, the complainants preferred a Complaint Case under Section 138 of the NI Act against the petitioner and his wife named Shagun Sandhu and the trial Court passed the impugned judgment dated 18.02.2015 and the order on sentence dated 20.02.2015 holding him (petitioner) guilty for committing the offence under the said provisions and awarding the above-mentioned punishment to him while acquitting his above-named co-accused, i.e his wife, of the said offence and the Criminal Appeal preferred by him (petitioner) to challenge the said judgment and the order on sentence has also been dismissed by the Appellate Court vide the impugned judgment dated 22.02.2017.

4. I have heard learned counsel for the petitioner as well as learned counsel for the complainants and learned Additional Public Prosecutor for respondent No.5-UT, in the present revision petition and

have also perused the record thoroughly.

5. Learned counsel for the petitioner has contended that complainant No.4 remained employed with the petitioner and during his stint as such, he had stolen the blank letter-head as well as the blank cheque, signed by the petitioner, from his (petitioner's) office and the same have been misused by the complainants and moreover, the cheque in question was issued in favour of complainant No.4-Gurvinder Singh only and therefore, there was misjoinder of complainants No.1 to 3, in the Complaint Case. She has further contended that the afore-said cheque had allegedly been issued by "Sandhu Builders" whereas the petitioner was running an Immigration Consultation Company under the name and style of "Passionate Immigration Consultation Private Limited" and the trial Court as well as the Appellate Court have not appreciated the above-discussed facts in the right perspective and in these circumstances, the impugned judgment handed down by the Appellate Court as well as the judgment and the order on sentence as passed by the trial Court are not legally sustainable and hence, the same are liable to be set aside and the petitioner deserves to be acquitted in this case.

6. Per-contra, learned counsel for the complainants as well as learned counsel for respondent No.5-UT have argued that all the afore-raised contentions have been elaborately discussed and dealt with by both the Courts below in their respective judgments and this revision petition is devoid of any merit and hence, the same be dismissed.

7. So far as the contention of learned counsel for the petitioner qua the blank letter-head as well as the blank cheque, both signed by the

petitioner, having been stolen by complainant No.4 during his tenure as an employee of the petitioner and the same having been misused by the complainants is concerned, it is worth-while to mention here that both the Courts below have observed in their respective impugned judgments that the petitioner had not even lodged a complaint against the said complainant with the police in this regard and learned Appellate Court has also categorically observed in para 11 in the impugned judgment dated 22.02.2017 that although he (petitioner) had moved a petition before this Court which was disposed of vide the order Exhibit D-2 but however, none of the complainants had been arrayed as party in the said petition. Thus, both the Courts below have not found the above-discussed version of the petitioner to be trust-worthy.

8. Further, it has also been specifically held by both the Court below that the petitioner did not deny his signatures on the said receipt as well as the cheque. It being so, the contention as raised by learned counsel for the petitioner qua the misjoinder of complainants No.1 to 3 in the Complaint Case pales into insignificance.

9. As regards the last contention of learned counsel for the petitioner regarding the cheque in question having been issued by “Sandhu Builders”, this contention has also been discussed and dealt with in detail in the impugned judgments while observing that “Sandhu Builders” is a Proprietorship Firm and the present petitioner is the proprietor thereof and the income tax returns for the said Firm were also filed by him and therefore, he (petitioner) could have issued the cheque of the above-said Firm to discharge his legal liability towards some other account.

10. As a sequel to the fore-going discussion, it follows that the impugned judgments and the order on sentence 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. It being so, the revision petition in hand, being *sans* any merit, stands dismissed.

11. Resultantly, the petitioner, who was extended the relief of interim bail vide the order dated 28.03.2017 passed by this Court, be taken into the custody for completing/undergoing the remaining part of the sentence as awarded to him. Learned Chief Judicial Magistrate concerned is directed to make the necessary compliance of this order.

(MEENAKSHI I. MEHTA)
JUDGE

09th September, 2021.
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Whether speaking/reasoned?	Yes
Whether Reportable?	No