

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

**CRA-S No.989 of 2022 (O&M)
Decided on: 30.05.2022**

Vikram

....Appellant

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ketan Antil, Advocate
for the appellant.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this appeal is for setting-aside the order dated 20.04.2022 passed by the Additional Sessions Judge, Sonapat vide which a penalty of Rs.1.00 lac has been imposed on the appellant in proceeding under Section 446 Cr.P.C.

Counsel for the appellant has argued that the appellant stood surety for an accused Ravinder Kumar in an appeal titled as "*Ravinder vs M/s. Khatri Feeds Mills*". The appeal was filed against the judgment of conviction and order of sentence dated 29/30.11.2022, passed by the trial Court convicting Ravinder Kumar under Section 138 of the Negotiable Instruments Act, 1881.

Counsel for the appellant has further submitted that Ravinder was regularly appearing before the Lower Appellate Court, however, he absented on 31.03.2021 and thereafter, the Court issued a notice to the appellant, being surety of Ravinder under Section 446

Cr.P.C. and despite a request for taking the lenient view, the entire amount of Rs.1.00 lac has been imposed as a penalty. It is also submitted that the appellant - Vikram is a senior citizen, aged about 78 years and has no independent means to pay the amount of Rs.1.00 lac as he is a meagre farmer having small piece of agricultural land and had no knowledge that accused Ravinder will jump the bail.

Counsel for the appellant has further contended that later on, Ravinder has appeared before the Lower Appellate Court and vide order dated 28.04.2022, the matter has been amicably settled between the parties. The operative part of the order dated 28.04.2022, reads as under:-

“8. In view of the facts and circumstances of the case and keeping in view the prayer of financial condition of appellant, the appellant is ordered to deposit an amount of Rs.2,000/- in legal aid fund.

9. Appellant-accused has also deposited Rs.2000/- in legal aid fund. The appellant has also placed on record receipt No.020478 dated 28.04.2022 showing that he has deposited the aforesaid amount in District Legal Services Authority, Sonapat.

10. Hence, in view of the aforesaid facts and the compromise effected between the parties, the offence under Section 138 of the Act stands compounded. The criminal appeal is allowed. Judgment of conviction dated 20.01.2019 and order of sentence dated 30.01.2019 passed by the Court of Ms. Saravpreet Kaur, the then Learned

JMIC, Sonapat are set aside and it is ordered that amount of fine, if any, deposited with the learned trial Court be refunded to the appellant-convict as per rules. Appellant is ordered to be set at large immediately in this case. Copy of judgment be sent to learned trial Court along with file record for information and necessary compliance. After due compliance, appeal file be consigned to record.”

Counsel for the appellant has also submitted that in view of the said circumstances, imposition of the penalty of Rs.1.00 lac on the appellant is on a higher side. Counsel for the appellant has relied upon the judgment passed by this Court in **"Bhagat Singh vs State of Haryana"**, 2018(2) RCR (Criminal) 337, wherein it is held as under:-

*“Counsel for the appellants has relied upon the judgment passed by this Court **“Mohinder Singh vs The State of Punjab”**, 2008(22) RCR (Criminal) 704, **“Angrej Singh vs State of Punjab”**, 2010(4) RCR (Criminal) 580 and **“Gopal Kaur vs State of Punjab”**, 2011(6) RCR (Criminal) 1394, wherein this Court has while imposing penalty under Section 446 Cr.P.C. has held that the amount of penalty may be reduced to 1/4th of the amount of surety bonds.”*

Notice of motion.

Mr. Himmat Singh, DAG, Haryana, who is present in the Court accepts notice on behalf of the respondent – State and could not dispute the factual position.

After hearing the counsel for the parties, in order to avoid further delay in disposal of the proceedings before the Lower Appellate Court and considering the fact that the appellant is a senior citizen,

aged about 78 years and has no independent source of income to pay the penalty amount of Rs.1.00 lac, the present appeal is partly allowed and the penalty amount of Rs.1.00 lac imposed by the Lower Appellate Court on the appellant – Vikram, in terms of the impugned order dated 20.04.2022, is reduced to Rs.10,000/-. The penalty amount of Rs.10,000/- shall be deposited with the concerned Court within a period of 03 months from today, failing which this appeal stand automatically dismissed without any further orders.

(ARVIND SINGH SANGWAN)
JUDGE

30.05.2022

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No