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

CRR-1149-2021 (O&M)
Date of decision: 02.08.2022

SUSHIL KUMAR ALIAS MANOJ KUMAR

...Petitioner

Versus

ANKUSH JAIN AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Dr. A.K. Bishnoi, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana

Mr. Tanvir Singh Grewal, Advocate
for respondent No.1.

SURESHWAR THAKUR, J. (ORAL)

1. The instant criminal revision petition is directed against the concurrently made verdicts by both the learned Courts below, upon, criminal complaint No.59-RT of 2013. The above criminal complaint, embodies an offence constituted under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the Act”).

2. In consequence to the concurrent verdicts of conviction made, upon the petitioner, he also became sentenced by both the learned Courts below, to undergo the substantive sentence of imprisonment lasting upto a term of one year, and, also was directed to pay the cheque amount comprised in a sum of Rs.20 lacs, alongwith 10% additional amount to the complainant, as compensation.

3. The dishonoured negotiable instrument(s) are respectively embodied in Ex. P-3, and, in P-4, and, respectively carry therein sum of Rs.10 lacs each. Their issuance(s) was in pursuance to an agreement drawn amongst

the petitioner-accused, and, the respondent-complainant, agreement whereof is comprised in Ex.P-1.

4. The learned counsel for the petitioner herein does not dispute, the factum that, the statutory notices, as became attempted to become served, upon him, at the instance of the respondent-concerned, becoming validly served, upon him. However, he very vehemently contests the factum that, the efficacy of his rebuttal evidence, to the statutory presumption invested in the holder in due course, of the dishonoured negotiable instruments, has not been properly appreciated, hence by both the learned Courts below.

5. In the above regard, he draws the attention of this Court, to a suggestion meted to the complainant, during the course of the latter's cross-examination, with an echoing therein, that the validly signed dishonoured negotiable instruments concerned, were misused by the complainant, and, though the above suggestion(s) become denied, but yet he contends that per-se through the mode (supra), the accused, rather cogently rebutting the efficacy of the statutory presumption invested in the holder in due course of the dishonoured negotiable instruments.

6. This Court does not agree with the above made submission, as the petitioner, does not dispute his signatures carried on Ex.P-1, and, even if assumingly, the dishonoured negotiable instruments, were misused by the respondent-complainant, inasmuch as, despite the petitioner subscribing his valid signatures thereon, but yet the other scribing therein, in words, and, figures, rather with respect to the dates, and, also with respect to the amounts carried therein, were also required to be disputed. Moreover, also the above contest, was required to be not only raised, but was also required to be proven through the petitioner-accused, casting an application under Section 45 of Indian

Evidence Act, before the learned trial Magistrate concerned, for his seeking an affirmative order thereon, and, subsequently, upon all the disputed scribings carried in the dishonoured negotiable instruments concerned, being sent along with, the admitted/standard writings of the present petitioner, to the handwriting expert concerned, the latter making an opinion that, the contest in respect of the above, rather was validly raised.

7. However, neither the above contest became raised nor evidently became supported through adduction of evidence (*supra*). In consequence, the above denial(s) here, by the learned counsel for the petitioner in respect to his authoring, all the scribings occurring, in the dishonoured negotiable instruments concerned, do not hold any vigor, and, obviously also the above adduced frail evidence, rather in purported rebuttal to the statutory presumption, invested in the holder in due course of the dishonoured negotiable instruments, inasmuch as, theirs being presumed to become issued, in discharge of a legally enforceable debt or other liability, whereons, the petitioner, does not deny his signatures, rather does not acquire any evidentiary worth. In consequence, this Court concludes that, the concurrently made verdicts of conviction, and, consequent therewith sentence, and, also the order of compensation, as has becomes made by both the learned Courts below, do not require, any interference.

8. Therefore, the instant criminal revision petition is dismissed.

9. However, since it is stated at the bar, by the learned counsel for the petitioner, that from the total substantive sentence of imprisonment lasting upto a spell of one year, the petitioner has spent about 11 months 14 days in prison. Therefore, the above spent time in prison, by the present petitioner, is declared, to be the sentence imposable, upon the petitioner herein, and/or, the above spent period in prison, is in modification, to the substantive sentence of imprisonment

lasting upto a spell of one year, is imposed as the sentence of imprisonment, upon the petitioner.

10. Moreover, since it is stated at the bar, by the learned counsel for the respondent, that out of the total compensation sum of Rs.20 lacs, a sum of Rs. 6,73,000/- has been liquidated to the respondent concerned. Thereupon, only with respect to the remaining sums of money, it is open to the respondent concerned, to seek appropriate recourses for realization thereof, either from the person, or from estate of the petitioner.

11. Pending miscellaneous application(s), if any, stand(s), disposed of.

02.08.2022

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(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No