

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

CRR-321-2020 (O&M)
Date of Decision: 28.03.2023

RAVI PAWAR

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Bikram Chaudhry, Advocate
for the petitioner.

Mr. Ram Kumar Singla, D.A.G., Haryana.

Mr. Manjeet Singh, Advocate
for respondent No.2.

HARSH BUNGER, J.

Present revision petition is directed against the judgment of conviction dated 19.09.2017 and order of sentence dated 21.09.2017 passed by learned Judicial Magistrate Ist Class, Jind, whereby the petitioner-convict was held guilty for commission of offence punishable under Section 138 of Negotiable Instruments Act (for short, 'the N.I Act') and sentenced to undergo rigorous imprisonment for a period of one year and was further directed to pay compensation to the tune of Rs. 6,00,000/- to the complainant (respondent No.2 herein) under Section 357(3) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') within a period of two months from the passing of the judgment by the trial Court; and judgment dated 29.10.2019 passed by learned Additional Sessions Judge, Jind, whereby the

appeal preferred by the petitioner-convict against the aforesaid judgment of conviction and order of sentence, was dismissed.

Succinctly, respondent No. 2-complainant filed a complaint under Section 138 of N.I Act wherein it was averred that he gave Rs.11,00,000/- to petitioner-convict as loan. In discharge of his liability, the petitioner-convict issued a cheque bearing no.035942 dated 13.08.2014 for Rs.2,00,000/- drawn on State Bank of India, Jind in favour of respondent-complainant and assured the respondent-complainant that the said cheque will be honoured on its presentation. Respondent no.2-complainant presented the said cheque with his banker i.e. "The State Bank of Patiala, Jind," for encashment but the same was returned vide memo dated 14.08.2014 due to reason of 'Insufficient funds'. Thereafter, petitioner-convict promised to deposit sum of Rs.5,30,000/- in account and then handed over another two cheques bearing Nos.035940 and 035941 dated 26.8.2014 for an amount of Rs.1,65,000/- (each) drawn on State Bank of India, Jind in favour of respondent-complainant and assured the respondent-complainant that the said cheques will be honoured on their presentation. Respondent no.2-complainant presented all the said three cheques with his banker i.e. "The State Bank of Patiala, Jind," for encashment but the same were returned vide memo dated 27.08.2014 due to reason of 'Insufficient funds'. Thereafter, respondent-complainant served notice dated 28.08.2014 upon the petitioner-convict. Despite issuance of legal notice, the petitioner-convict failed to give payment to respondent No.2-complainant. Hence, the complaint under Section 138 of the Act was filed by respondent No.2-complainant against the petitioner-convict.

During trial, learned trial Court completed various proceedings of trial. In order to bring home the guilt of the petitioner-convict, the respondent no. 2-complainant examined PW1 Sandeep Kumar, PW2 Harpal Singh and PW3 Virender Singh and thereafter, closed the evidence. Respondent no.2-complainant has also tendered the following documents:-

Ex.C1	:	Copy of acknowledgement
Ex.C2	:	Cheque no. 35942
Ex.C3	:	Bank memo dated 04.08.2014
Ex.C4	:	Bank Receipt
Ex.C5	:	Cheque no.35940
Ex.C6	:	Cheque no.35941
Ex.C7, Ex.C9 & Ex.C11	:	Bank memos dated 27.08.2014
Ex.C8, Ex.C10 & Ex.C12	:	Bank Receipts
Ex.C13	:	Legal notice
Ex.C14	:	Postal receipt

Thereafter, statement of petitioner-convict under Section 313 of Cr.P.C. was recorded whereby he was apprised of all incriminating circumstances appearing in evidence against him. He claimed his false implication and pleaded his innocence. He further pleaded that he never took any loan from respondent No. 2-complainant nor he ever gave any cheque to respondent No.2-complainant.

No defence evidence was adduced and same was closed.

After considering the material and evidence available on record, learned trial Court held the petitioner guilty for commission of offence under

Section 138 of the NI Act and convicted him in the manner narrated above, vide judgment and conviction and order of sentence dated 21.09.2017.

The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Jind, vide its judgment dated 29.10.2019.

At the very outset, learned counsel for the petitioner contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken as the petitioner has already undergone whole of the actual sentence of one year awarded to him and presently he is undergoing sentence in default of payment of compensation as awarded by the trial Court. Learned counsel for the petitioner submits that the petitioner is a poor man and he has two little children and a family to look after. Learned counsel for the petitioner submits that the petitioner is the only bread earner / care taker of his whole family and that there is no other case against him.

Learned State counsel as well as learned counsel for respondent No.2-complainant contended that the petitioner does not deserve any concession and the present revision petition be dismissed, however, they do not dispute the fact that the petitioner has already undergone whole of the actual sentence of one year awarded to him and presently he is undergoing sentence in default of payment of compensation as awarded by the trial court.

I have heard learned counsel for the petitioner; learned State counsel and also learned counsel for respondent no.2-complainant, besides going through the impugned judgments.

Having considered the submissions made by learned counsel for the parties and after perusing the paper book and impugned judgments, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner. The judgments passed by the Courts below are well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity with the judgments passed by the Courts below which might have called for interference by this Court, while exercising revisional jurisdiction. It is well settled that scope of revisional jurisdiction of this Court is quite limited and the Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment under challenge. This is not the case here. Therefore, the impugned judgments are upheld on the point of conviction. As such, the present revision petition, qua judgment of conviction passed by the Courts below, stands dismissed.

As regards, the quantum of sentence, keeping in view the fact that the petitioner has already undergone whole of the actual sentence of one year awarded to him and presently he is undergoing sentence in default of payment of compensation as awarded by the trial Court and also considering the antecedents of the petitioner coupled with the fact that he has faced litigation since the year 2014, taking a lenient view on the point of sentence, the order of sentence is modified that the sentence awarded to petitioner-Ravi Pawar son of Sh. Ishwar Singh in this case, shall be reduced to the period he has already undergone while remaining in custody in this case. The petitioner be released from custody, if not required in any other case. However, no interference is called for in the observations of the trial Court

regarding payment of compensation and the same stand affirmed, which shall be recoverable in accordance with law.

Resultantly, the present revision petition stands disposed of in the above terms.

All pending application/s, if any, shall stand closed.

March 28, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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