

CRR-1827-2019 (O&M)
Date of decision : 24.11.2023

...Petitioner

...Respondent

Mr. Kamal Narula, Advocate,
for the respondent.

3. After hearing both side and taking into consideration the material available on record, learned Judicial Magistrate Ist Class,

CRR-1827-2019 (O&M)

-2-

Guruharsahai, (for short, 'JMIC') convicted and sentenced the petitioner under Section 138 of the Act in the following manner:-

“..... Keeping in view the facts and circumstances of the case and the gravity of the offence, I am of the considered view that convict is not entitled for any leniency. As such, convict Chanan Singh is sentenced to undergo rigorous imprisonment for a period of one year and also imposed with fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for one month for offence under Section 138 of the Negotiable Instruments Act. File be consigned to the record-room.”

4. Aggrieved against the aforesaid conviction and sentence, petitioner preferred an appeal, but the same was dismissed by learned Additional Sessions Judge, Ferozepur, vide impugned judgment dated 25.01.2019.

5. Still dissatisfied with the Courts below, petitioner has preferred the present revision.

6. On 22.10.2019, a Co-ordinate Bench, while suspending the sentence of petitioner, passed the following order:-

“As per office report, notice issued to respondent has not been received back serve or otherwise.

Issue fresh notice to the respondent returnable on 18.12.2019.

Learned counsel for the petitioner contends that the allegations in the complaint against the petitioner are that the cheque issued by him in favour of the respondent (complainant) for a sum of Rs.3,60,000/- on 27.06.2016

was dishonoured due to 'insufficient funds'. He also contends that the petitioner has already paid a sum of Rs.88,000/-, which is reflected in the cross-examination of the respondent (complainant). He also contends that the petitioner is willing to pay a sum of Rs.70,000/- to the respondent (complainant) without prejudice to his rights and contentions. He further contends that the petitioner has already undergone the sentence of imprisonment for over six months out of the total sentence of one year.

Custody certificate filed by the learned State counsel is taken on record which indicates that the petitioner has undergone 6 months and 6 days out of the total sentence of 1 year.

On the petitioner depositing a demand draft for a sum of Rs.70,000/- in favour of the complainant before the Registrar (Judicial) of this Court, the sentence of the petitioner shall remain suspended, subject to his furnishing requisite bonds to the satisfaction of the CJM/Duty Magistrate concerned.

List on 18.12.2019.”

7. It is acknowledged by both sides that in pursuance of the above orders, an amount of Rs.70,000/- was deposited by the petitioner with the Registrar (Judicial) and which was withdrawn by the respondent. As on today, the sole petitioner is stated to be no more and his death certificate dated 21.04.2023, has already been brought on record as Mark 'X'.

8. In such a situation, learned counsel for the petitioner submits that present petition be disposed of as having been rendered infructuous.

CRR-1827-2019 (O&M)

-4-

9. Even learned counsel for the respondent is also not averse to the above submission of the petitioner.
10. Heard both sides and perused the paper-book.
11. It is not in dispute that petitioner was convicted and sentenced under Section 138 of the Act to undergo rigorous imprisonment for a period of one year with fine of Rs.2,000/-.
12. Concededly, no compensation was granted by learned JMIC to the respondent in lieu of cheque amount. It is jointly stated that fine of Rs.2,000/- was paid by the petitioner and during life time, he had undergone imprisonment of six months. As already noticed, as on today, petitioner is no more.
13. Thus, in such a scenario, even if the revision fails, still the remaining sentence cannot be executed.
14. Moreover, learned counsel for the petitioner does not want to pursue the matter.
15. As a result thereof, there is no option except to disposed off the petition.
16. Ordered accordingly.
17. Pending application(s), if any, shall also stand disposed off.

24.11.2023

adhikari(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No