

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104.

CRR No.1143 of 2023 (O&M)
Date of Decision:06.02.2024

Harpreet Singh Chandhok

... Petitioner

Versus

State of U.T., Chandigarh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Makkar, Advocate
for the petitioner.

Mr. Deepak Malhotra, Advocate for
Ms. Simsi Dhir Malhotra, APP, U.T, Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

CRM No.47214 of 2023

Application is allowed as prayed for.

Annexure P-8 is taken on record.

CRR No.1143 of 2023 (O&M)

1. The present petition has been filed challenging the impugned judgment dated 10.01.2023 passed by the Additional Sessions Judge, Chandigarh whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 01.09.2022 passed by the learned Judicial Magistrate 1st Class, Chandigarh vide which he has been awarded rigorous imprisonment for two years for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the NI Act), has been dismissed.

2. Learned counsel appearing for the petitioner pleads no instructions in the matter.

3. A perusal of the judgment dated 10.01.2023 passed by the lower Appellate Court indicates that a direction was issued to the learned trial Court for initiating necessary process against the convict for compliance of order of sentence as per law.

4. Learned APP, U.T., Chandigarh on instructions submits that the petitioner did not surrender before the jail authorities till date and it appears that after filing of the present petition, he is concealing himself by not submitting himself to the process of law.

5. After perusing the record of the case, this Court does not find merit in the present petition.

6. The petitioner-accused had taken friendly loans of Rs.50,00,000/- and Rs.25,00,000/- from respondent No.2-complainant. He repaid Rs.10,00,000/- by way of cheque and issued two more cheques in the year 2016 i.e. cheque No.014824 dated 03.11.2016 for Rs. 50,00,000/- and cheque No.090771 dated 03.11.2016 for Rs.15,00,000/- along with executing a promissory note in favour of the respondent No.2 admitting his liability. On presentation for encashment, cheque bearing No.014824 for Rs.50,00,000/- was dishonoured vide memo dated 04.11.2016 with remarks 'payment stopped by drawer.'

7. A perusal of the record indicates that the petitioner has admitted his liability vide voluntary statement recorded on 28.02.2018 wherein he conceded his liability. In his cross-examination, the petitioner (DW1) has specifically admitted to have borrowed a the sum from respondent No.2 and having partly repaid the loan to the tune of Rs.35,00,000/-. On 07.08.2018, the petitioner suffered another statement that he had voluntarily compromised the matter and

admitted that the cheque issued in furtherance of the compromise was dishonoured and offered to pay Rs.1,00,000/- in the event of the first cheque being dishonoured. He has time and again reiterated his liability and the factum of issuance of the disputed cheque. Furthermore, no evidence has been brought on record to challenge the signatures of respondent No.2 or the petitioner on the handwritten promissory note which recorded the factum of loan secured by the petitioner from respondent No.2. Therefore, the petitioner has failed to rebut the presumption under Section 139 of the NI Act. The learned Courts below have correctly appreciated the material to record a guilty verdict and as such, does not warrant any interference by this Court.

8. There is also an unexplained delay of 17 days in filing the instant petition.

9. Consequently, the instant petition stands dismissed on the ground of delay as well as on merit.

10. Registry is directed to send a copy of this order to the concerned jurisdictional Magistrate as well as the Senior Superintendent of Police, Chandigarh to initiate action against the petitioner in compliance of judgment and conviction and order of sentence dated 01.09.2022 passed by the learned Judicial Magistrate 1st Class, Chandigarh.

(HARPREET SINGH BRAR)
JUDGE

February 06, 2024
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No