

CRR-2351-2018

**2024:PHHC:038077
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**253-4 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

**Reserved On: 11.03.2024
Pronounced On: 13.03.2024**

SURINDER SINGH

**CRR-2351-2018 (O & M)
...PETITIONER**

VERSUS

JAGDEV KUMAR AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.K. Sharma, Advocate for the petitioner.

 Mr. S.S. Dinarpur, Advocate with
 Mr. Aman Godara, Advocate for respondents.

HARPREET SINGH BRAR, J.

CRM-24876-2018

 This is an application under Section 5 of the Limitation Act read
with Section 482 of Cr.P.C. seeking condonation of delay of 55 days in filing
the accompanying revision petition No.CRR-2351-2018.

 For the reasons mentioned in the application, the same is allowed
and the delay stands condoned.

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 The above-noted revision petition has been preferred by the
petitioner-complainant-Surinder Singh, against the judgment of conviction
dated 10.07.2015 and the subsequent order of sentence dated 13.07.2015,
passed by learned Judicial Magistrate Ist Class, Yamuna Nagar, in three

complaints filed under Section 138 of the Negotiable Instruments Act, 1881 (herein after referred to as ‘NI Act’) as well as the judgment dated 27.10.2017, passed by learned Sessions Judge, Yamuna Nagar, whereby, the appeal filed by the petitioners was dismissed, but with a prayer for enhancement of sentence awarded to the respondents-accused in the above-mentioned complaints. Respondent No.1, being the sole proprietor of respondent No.2, was sentenced as under: -

Under Section 138 NI Act	R.I. for 1 year with compensation of Rs.4,50,000/- to be paid to the complainant within two months. Further R.I. of 3 months in case of default of payment of compensation within said period. <i>(consecutive sentence in three complaints by the trial Court but modified by lower Appellate Court to run concurrently)</i>
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2. Allegedly, respondent No.1-Jagdev Kumar is the proprietor of respondent No.2-M/s S.R. Engineering Industries, wherein, the petitioner-complainant-Surinder Singh was also a partner and vide dissolution dated 10.05.2012, after settlement of accounts, the petitioner retired from the firm and respondent No.1, became the sole proprietor. As per the private agreement also dated 10.05.2012, respondent No.1 agreed to pay an amount of Rs.22,00,000/-, to respondent No.2 qua his share. In order to discharge the aforesaid liability, respondent No.1 issued a cheque bearing No.582470 dated 10.05.2013 for Rs.4,00,000/- along with two other cheques of the same amount and similar date, in favour of the petitioner. When presented for encashment, the said cheques were dishonoured with reason ‘Payment Stopped by Drawer’. Thereupon, the petitioner-complainant served a legal notice upon respondent

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no.1 calling upon him to make the payment, qua the settlement amount of Rs.22,00,000/- but to no avail.

3. Aggrieved by the same, the petitioner filed three respective complaints under Section 138 of NI Act, including complaint no.1786 of 2013, in the present case, which were disposed of by the learned trial Court by way of judgment dated 10.07.2015, wherein, respondent No.1, being the sole proprietor of accused firm, i.e., respondent No.2 was convicted under Section 138 NI Act and was ordered to undergo sentence as mentioned above.

4. Aggrieved by the said judgement and order, the respondents filed an appeal before the learned lower Appellate Court, wherein, the said Court upheld the judgement of conviction but modified the order of sentence to the extent that substantive sentence of imprisonment shall run concurrently with the sentence awarded in other complaints No.1788 of 2013 and 1780 of 2013.

5. Thereafter, the respondents aggrieved by their conviction and sentence have approached this Court by way of CRR-4293, 4298 & 4299 of 2017 against their conviction, whereas, the petitioner-complainant-Surinder Kumar has approached this Court in CRR-2351-2018 praying for enhancement of sentence.

6. Learned counsel for the petitioner-complainant at the outset submits that the above-mentioned impugned judgments and order are erroneous, unjust and unwarranted, thereby, are liable to be set aside on the grounds that the learned Courts below should have taken into account the fact that the petitioner has been facing agony and harassment since 2012, at the hands of the respondents. He further submits that considering the facts and circumstances of the case, the respondent concerned should have been awarded

the maximum sentence of 02 years along with a penalty to the extent of double the amount of cheque.

7. *Per contra* learned counsel for the respondents-accused opposes the prayer made by the petitioner on the grounds that the said judgement of conviction itself is liable to be set aside on merits.

8. Having heard the learned counsel for the parties and after perusing the paper-book with their able assistance, this Court finds no merit in the prayer made by the learned counsel for the petitioner-complainant.

9. In the view of the facts and circumstances of the case, the present petition is dismissed.

10. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

March 13, 2024
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No