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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 40/2021**

BRIJESH GOSWAMI THR PAROKAR/BROTHER.....Petitioner

Through: **Mr.Anish Roy and Mr.Kapil Gautam,**
Advocates

versus

AMIT GUPTA

.....Respondent

Through: **Mr.Rajiv Kanwar,** Advocate
(Through VC)

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
05.11.2024

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1. The instant criminal revision petition has been filed on behalf of the petitioner under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 challenging the impugned judgment dated 22.01.2021 in Criminal Appeal bearing No. 365/2019 titled as "*Brijesh Goswami vs. Amit Gupta*", whereby the appeal filed by the appellant against the judgment of conviction dated 27.08.2019 and order on sentence dated 29.08.2019 passed by the learned MM, NI Act-06, Central District, Tis Hazari Courts, Delhi in Complaint Case bearing No. 526679/16 under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter "NI Act") was dismissed.

2. Vide impugned judgment of conviction dated 27.08.2019 and order on sentence dated 29.08.2019, the learned MM, convicted the appellant under Section 138 of the NI Act and sentenced him to undergo simple imprisonment for two months and to pay a sum of Rs.2,75,000/- as fine to be paid to the complainant by the convict as compensation.



3. It is an admitted case that the petitioner has already paid a sum of Rs.2,75,000/- to the complainant. Furthermore, there is no record of the complainant initiating any proceedings to seek an enhancement of the sentence awarded by the learned Trial Court on 29.08.2019. Additionally, it following the dismissal of the appeal by the learned ASJ, the petitioner remained in custody from 22.01.2021 to 03.02.2021, totaling 14 days.

4. Given these circumstances, it is clear that the petitioner has fulfilled the entire compensation requirement. In matters concerning Section 138 of the NI Act, Courts have consistently emphasized the importance of prioritizing compensation over punitive measures. Considering the facts at hand including the consistent findings of conviction by both the learned MM and the learned ASJ as well as the reasoned judgment upheld by the learned ASJ through a detailed order, the complete payment of the Rs.2,75,000/- compensation, the petitioner's 14-day custody period, and that the matter is from 2012-13, the conviction order is sustained. However, the sentence is modified to reflect that the petitioner is convicted only for the period already served.

5. As the compensation has been fully paid, the petition is, accordingly, disposed of.

6. Copy of the order be sent to the concerned Jail Superintendent and the concerned learned Trial Court for necessary compliance and information.

DINESH KUMAR SHARMA, J

NOVEMBER 5, 2024/Dy/smg..