



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

250

CRR-1023-2025 (O&M)

Date of decision: 26.11.2025

Sukhwinder Singh

...Petitioner(s)

VERSUS

Balwinder Singh

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Kamal Narula, Advocate for the petitioner(s).

Ms. Savi Nagpal, AAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The present criminal revision has been filed against the judgment as well as order dated 14.07.2022, passed by the Judicial Magistrate 1st Class, Ferozepur, in case bearing No. NACT/921 dated 20.10.2016 titled as 'Balwinder Singh Vs. Sukhwinder Singh', whereby the petitioner had been convicted and sentenced to undergo rigorous imprisonment for a period of 09 months for offence under Section 138 of Negotiable Instruments Act, 1881 and to pay a compensation to the extent of the cheque amount alongwith interest @9% per annum from the date of issuance of cheque till the date of the order; as well as against the judgment dated 17.01.2025 passed by the Judge, Special Court-cum-Additional Sessions Judge, Fast Track Court, Ferozepur, whereby the appeal bearing CIS No. CRA/93/2022 has been dismissed.

2. Briefly summarized, the facts of the present case are that the

complainant and accused-petitioner were on visiting terms with each other and in faithful dealing, the petitioner borrowed a sum of Rs. 2,50,000/- from the complainant at Ferozepur in August 2016 and promised to repay the same within a short time. In order to discharge his liability, the accused-petitioner issued Cheque no. 769183 dated 19.09.2016 for a sum of Rs.2,50,000/- drawn at Vijaya Bank, Branch Ferozepur City, which was dishonoured upon presentation vide memo dated 22.09.2016 with remarks 'Funds Insufficient'. Thereafter, a legal notice dated 27.09.2016 was sent by counsel for the complainant by post to the accused but the accused failed to make the payment of the cheque amount. Hence, complaint No. NACT/921 came to be filed before the Judicial Magistrate 1st Class, Ferozepur. Thereafter, the accused was summoned for the commission of an offence under Section 138 of the Negotiable Instruments Act on the basis of preliminary evidence.

3. On appearance, the petitioner-accused was granted bail and notice of accusation under Section 138 of the Negotiable Instruments Act was served upon him, to which he pleaded not guilty and claimed trial. Thereafter, in accordance with the judgment of the Supreme Court in the matter of ***Indian Banks Association vs Union of India, 2014(2) R.C.R. Criminal 598***, the case was fixed for cross-examination of the complainant on the request of the counsel for the accused. The petitioner-accused was permitted to cross-examine CW-1/Balwinder Singh upon his affidavit Ex. CW1/A, which he had furnished in his preliminary evidence vide his separate statement on 03.11.2016, wherein he proved on record the following documents:

- a) *Ex.C1 Cheque bearing no. 769183 dated 19.09.2016 of Rs.2,50,000/-;*
- b) *Ex.C2 memo dated 22.09.2016;*
- c) *Ex.C3 legal notice dated 27.09.2016;*
- d) *Ex.C4 postal receipt dated 27.09.2016.*

4. CW-1/ Balwinder Singh proved the certified copy of the RC as Ex. D1 in his cross-examination and thereafter, he closed his evidence.

5. Statement of petitioner-accused under Section 313 Cr.P.C. was recorded wherein all the incriminating evidence collected against him was put to him, which he denied and pleaded that he was innocent and had been falsely implicated in this case. He also pleaded that he never issued the cheque in question to the complainant Balwinder Singh.

6. In defence evidence, the accused examined as many as 06 witnesses.

7. DW 1 Jaswinder Singh, Patwari, Halqa Waghe Wala, village Jalalwala, proved the copies of Jamabandi of village Jalal Wala for the year 2016-2017 as Ex. D1/A to Ex. D1/C.

8. DW-2 Sunny Kumar, Clerk, Municipal Council, Ferozepur City, proved the attested copy of his assessment register pertaining to the residential house of Balwinder Singh measuring 4 Marla as Ex. DW2/A.

9. DW3 Rakesh Kumar, Halqa Patwari, circle Bare Ke, Tehsil and District Ferozepur, proved the copy of the Jamabandi pertaining to the year 2017-18 of village Machhiwara as Ex. DW3/A

10. The petitioner then examined DW-4 Neeraj Kumar, Clerk, RTA office, Ferozepur City, who proved ExDW4/A, i.e., attested copy of his

relevant register pertaining to the vehicle Maruti Suzuki bearing registration No. PB05S-5513.

11. The petitioner further examined DW-5 Hardeep Singh, Senior Tax Assistant, Income Tax Department, Ferozepur, who proved the Income Tax returns for the assessment year 2014-15 to 2019-2020 as Ex. D5/A to Ex. D5/F respectively, of the complainant Balwinder Singh.

12. The petitioner-accused further examined DW-6 Ms. Kalpana, the then Ahlmad of the District and Sessions Court, Ferozepur, who proved the copy of the order dated 09.05.2019 as Ex. D6/A passed in case titled as Balwinder Singh Vs. Nishan Singh bearing CIS No. NACT/407/2019.

13. The petitioner had also appended various other documents in evidence. The same are detailed as under:-

- “a) Ex. D7 certified copy of plaint of case titled as Balwinder Singh Vs. Sukhwinder Singh bearing number CS/989/2016 filed in the court of Ms Shikha Goel Civil Judge (Sr. Division) Ferozepur*
- b) Ex. D8 & Ex. D9 certified copy of Judgment and decree Sheet dated 06-12-2017 in case titled as Balwinder Singh Vs. Sukhwinder Singh bearing number CS/989/2016 passed by Ms Shikha Goel Civil Judge (Sr. Division) Ferozepur*
- c) Ex. D10 certified Copy of Registration Certificate of vehicle PB-05 S 5513 filed in case bearing number Cs 989/2016 titled as Balwinder Singh VS Sukhwinder Singh*
- d) Ex. D11 certified copy of complaint bearing no Nact*

318/2016 titled as FCCB VS Sukhwinder Singh decided on 13-02-2020 under section 138 NI Act

- e) *Ex. D12 certified copy of complaint Nact 158/2014 titled as Balwinder Singh VS Pipal Singh decided on 28-02-2018.*
- f) *Ex. D13 certified copy of judgment dated 26-02-2018 passed by Sh. Arun Gupta PCS, JMIC, Ferozepur in case titled as Balwinder Singh Vs. Pipal Singh bearing CIS NO. NACT/185/2014.*
- g) *Ex. D14 certified copy of order titled as Balwinder Singh VS Mangal Singh dated 03-05-2016 bearing CIS No. NACT/190/2014 passed by Ms Supreet Kaur the then Id. JMIC Ferozepur*
- h) *Ex. D15 certified copy of Judgment dated 21-10-2017 in case titled as Balwinder Singh Vs. Ramesh Kumar bearing CIS No. 37/2015 passed by Ms Shampy Chaudhary, JMIC, Ferozepur.*
- i) *Ex. D16 certified copy of complaint bearing number Nact/142/2015 titled as Balwinder Singh Vs Rakesh Kumar*
- j) *Ex. D17 copy of complaint titled as Balwinder Singh Jagdev Singh filed in case titled in case Balwinder Singh VS Pipal Singh bearing no Nact 185/2015.*
- k) *Ex. D18 certified copy of order dated 05-05-2016 passed in case titled as Balwinder Singh vs Jagdev Singh*

- l) *Ex. D19 certified copy of Judgment dated 29-10-2016 passed by Ms. Shampy Chaudhary, JMIC Ferozepur in case titled Balwinder Singh Vs. Pipal Singh bearing CIS No. NACT/36/2015.*
- m) *Ex. D20 certified copy of Judgment dated 29-07-2016 passed by Sh. Arun Gupta, JMIC Ferozepur in case titled as Balwinder Singh Vs. Satnam Singh bearing CIS No. COMA/1555/2013.*
- n) *Ex. D21 certified copy of legal notice dated 24-04-2011 filed in case titled as Balwinder Singh vs Pipal Singh(NACT 185/2014)*
- o) *Ex. D22 certified copy of complaint titled as Balwinder Singh VS Nachatar Singh filed in case Balwinder Singh VS Pipal Singh(NACT 185/2014).”*

14. On consideration of all the rival submissions advanced by the respective parties, the Judicial Magistrate 1st Class, Ferozepur, recorded a finding that the petitioner had issued a cheque for a sum of Rs.2,50,000/- dated 19.09.2016 in favour of the respondent-complainant in discharge of a legally enforceable debt and the same was dishonoured on its presentation. The documents produced by the respondent-complainant were fully discussed and even his financial capacity was established. The Court finally concluded that the petitioner was unable to rebut the statutory presumption against him consequent upon the issuance of cheque Ex. C-1 towards the discharge of the legally enforceable liability. Hence, he was convicted vide judgment dated 14.07.2022 and was sentenced to undergo rigorous

imprisonment for a period of 09 months vide order dated 14.07.2022. Against the same, the petitioner preferred an appeal before the Court of Sessions, and vide judgment dated 17.01.2025, the said appeal was also dismissed. Hence, the present criminal revision petition.

15. Counsel appearing on behalf of the petitioner has vehemently argued that both the Courts have failed to appreciate that the petitioner is the owner of 7 acres of agricultural land and given his financial standing, there was no occasion for him to borrow money from the respondent-complainant, who was holding a meagre 2 kanals 8.5 marlas of land. The financial capacity of the respondent-complainant has also not been taken into consideration. There was no income tax return to prove that he had sufficient resources at his command for running the business of selling cattle and milk. He thus contends that the said discrepancy in the evidence are material and have not been properly appreciated. Hence, the judgments passed by both courts deserve to be set aside.

16. Counsel for the petitioner has however been confronted with the specific objection raised by the respondent-complainant that the petitioner has not surrendered notwithstanding that he was convicted by the Judicial Magistrate 1st Class, Ferozepur on 14.07.2022 and he was required to surrender which has also been noticed by the Additional Sessions Judge, Ferozepur, in her judgment dated 17.01.2025. The copy of the judgment was sent to the Chief Judicial Magistrate, Ferozepur, for execution of conviction warrants against the petitioner for undergoing the sentence as awarded to him.

17. I have heard the learned counsel for the petitioner and have

gone through the documents appended along with the present petition.

18. Insofar as the issue pertaining to the financial capacity of the respondent-complainant to advance the loan is concerned, the said aspect need not be examined any further since it is evident from the perusal of the judgment passed by the Additional Sessions Judge, Ferozepur that the petitioner had himself admitted his liability as well as admitted about issuance of the cheque in favour of the respondent-complainant in his statement recorded on 09.02.2023 (as noticed in paragraph 17 of the judgment) and that he had agreed to return Rs. 1,25,000/- as full and final settlement qua the cheque in question in favour of the respondent-complainant. He further undertook to pay the amount in a single instalment on 20.04.2023 and had submitted that in the event of the failure to make the payment as per the settlement, the appeal be disposed of accordingly. Thus, the argument of the respondent not having the financial capacity to lend money pales into insignificance once the petitioner had suffered a statement admitting his liability in Court. The other argument that there was no need on the part of the petitioner to borrow such an amount, the same aspect also need not be gone into any further in view of the aforesaid specific observation recorded by the Additional Sessions Judge, Ferozepur in para No.17 of her judgment. Consequently, both these arguments, being intricately linked to each other and being borne out of financial capacity and the obligation to pay, need no further consideration.

19. The said arguments are thus rejected as the same cannot be re-appreciated after the specific admission of the liability by the petitioner before the Court of the Additional Sessions Judge, Ferozepur.

20. The present petition thus deserves dismissal as no illegality, perversity, impropriety or erroneous interpretation of evidence has been indicated by the counsel for the petitioner.

21. At this juncture, counsel for the petitioner contends that the sentence awarded to the petitioner is a meagre 09 months rigorous imprisonment and that the benefit of probation be extended to him.

22. I am afraid that such a prayer deserves to be declined at this stage in view of the conduct displayed by the petitioner himself. He had been granted the concession of regular bail vide order dated 07.12.2019, and since then, he has chosen not to appear before the Court, notwithstanding that he had been convicted on 14.07.2022 and sentenced by the Judicial Magistrate 1st Class, Ferozepur. Despite being aware of his conviction and also of the dismissal of the appeal, he chose not to surrender before the Court and display his faith in the process of law. The indulgence, on the issue of the quantum of sentence, being an equitable relief, is thus not being extended to a defaulter. Consequently, the said prayer is also declined.

23. The revision petition is ***accordingly dismissed.***

24. All pending misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

26.11.2025

Mangal Singh

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