IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3205-2011 (O&M)
Reserved on : 23.09.2025
Pronounced on : 29.09.2025

Ajaib Singh

..... Petitioner

VERSUS

Mahindra & Mahindra Financial Service Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Ms. Kompal Arora, Amicus Curiae for the petitioner.

Mr. Karan Sharma, Advocate for the respondent.
(joined through hybrid mode)

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SURYA PARTAP SINGH, J.

1. A trial, on the basis of complaint submitted by complainant/respondent, hereinafter being referred to as 'respondent' only, ended into judgment of conviction and order of sentence dated 03.11.2009, passed by the learned Additional Chief Judicial Magistrate, Bathinda, hereinafter being referred to as 'trial Court'. Since the petitioner was tried, in the abovementioned case, as an accused, he was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,00,000/-. Against the abovementioned judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Additional Sessions Judge, Bathinda, hereinafter being referred to as 'Appellate Court'. However, the said appeal did not find favour of the

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learned Appellate Court and the same was dismissed vide judgment dated 30.08.2011.

2. Aggrieved of the abovementioned judgment of conviction and order of sentence, passed by the learned trial Court, duly affirmed by the learned Appellate Court, the petitioner has preferred this revision petition on the ground that the abovementioned judgments/orders are perverse and an outcome of non-application of judicial mind. According to petitioner, without proper appreciation of fact and law the abovementioned judgments have been passed, and thus, there is need for interference and intervention of supervisory jurisdiction of this Court.

3. Heard.

4. In nut-shell, the facts emerging from record are that the abovementioned complaint was filed by the respondent with brief averments that the respondent is a company incorporated and registered under the Companies Act, 1956, having its registered office at Mumbai and one of its branch at Bathinda. According to respondent, in usual course of business of advancing loans/finance, under the Long/Higher Purchase Agreement, the respondent extended loan facility to the petitioner on 01.08.2001, for the purchase of Mahindra Tractor DI-265. As per respondent, the petitioner has agreed to return the money advanced to him in installments and in discharge of his abovementioned liability, of paying installments, he had issued the cheque No.295203 dated 28.06.2004 for a sum of Rs.1,78,320/-.

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5. It was further alleged by the respondent that the abovementioned cheque was presented before the banker of petitioner for encashment, but the same was not honoured by the banker of petitioner on the ground that funds lying in the account of petitioner were insufficient. According to respondent, in such circumstances, a legal notice was served upon the petitioner, but petitioner failed to reply the same. Thus, the complaint for the commission of offence punishable under Section 138 of Negotiable Instruments Act.

6. Heard.

7. It has been contended by learned *Amicus Curiae* defending the cause of the petitioner that the petitioner is an innocent person, and that without any reliable evidence merely on the basis of assumptions and presumptions, the learned trial Court has convicted the petitioner. According to learned *Amicus Curiae*, the impugned judgment of conviction and order of sentence are outcome of conjectures and surmises and therefore, both of them deserve to be set aside.

8. In addition to above, it has also been argued by learned *Amicus Curiae* that the petitioner has already undergone sentence for a period of 01 year and 08 days against the awarded sentence of 01 year, and thus, the petitioner has undergone the entire period of sentence.

9. Learned counsel for the respondent, while agreeing to abovementioned contention of learned *Amicus Curiae*, with regard to period of sentence already undergone, has argued that the petitioner is a defaulter

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and he has been rightly held guilty for the commission of offence punishable under Section 138 of NI Act.

10. The record including the learned trial Court record has been perused carefully.

11. In the present case, a perusal of record shows that all the essential elements, meant to prove a charge for the commission of offence under Section 138 of NI Act, have been duly proved before the learned trial Court. Otherwise also, this fact cannot be ignored that after failing in appeal, revisional jurisdiction of this Court has been invoked by the petitioner, and the scope of interference, while exercising revisional jurisdiction, is very limited.

12. In view of abovementioned observations, once there is no patent illegality or infirmity in the findings of conviction recorded by the learned trial Court, the judgment impugned by virtue of present revision petition, with regard to conviction of petitioner, is hereby dismissed.

13. As far as the order on quantum of sentence is concerned, in view of the fact that the maximum sentence prescribed for the offence committed by the petitioner is imprisonment up to 03 years and against the abovementioned prescribed period of sentence, a sentence to undergo imprisonment for one year has been awarded, it is hereby held that already a lenient view has been taken by the learned trial Court, which has not been interfered in appeal. Thus, there is no scope for indulgence or interference in the verdict qua quantum of sentence, also.

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14. As a sequel of abovementioned observations, it is hereby held that there is no scope of interference in the impugned judgment of conviction and order of sentence, passed by the learned trial Court, duly affirmed by the learned Appellate Court. Thus, the present petition being devoid of merit deserves dismissal.

15. Accordingly, the present petition is hereby dismissed.

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

(SURYA PARTAP SINGH)
JUDGE

SEPTEMBER 29, 2025
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No

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