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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1921-2013 (O & M)
Date of decision: 13.02.2025

SUKHJIT SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR
Present: Mr. Himanshu Chauhan, Advocate for
Mr. Rakesh Kumar, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 02.05.2013 passed by learned Additional Sessions Judge, Kapurthala, vide which, judgment of conviction and order on quantum of sentence dated 18.01.2011 passed by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi, Amritsar in a complaint case filed under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as ‘NI Act’) have been upheld.
2. The petitioner was sentenced as under:

Offence	Sentence
138 NI Act	SI for 01 year with a fine of Rs.500/-, in default of payment of fine, to undergo SI for 02 months.

3. Briefly, the case of complainant is that petitioner/accused borrowed an amount of Rs.1,70,000/- from respondent No.2/complainant and in discharge of his liability, the petitioner/accused issued one cheque bearing No.832584 dated 18.12.2008 for Rs.1,70,000/- drawn on Punjab and Sind



Bank, Sultanpur Lodhi, District Kapurthala, in favour of respondent No.2/complainant, with an assurance that the said cheque would be encashed as and when presented. On the assurance given by the petitioner/accused, respondent No.2/complainant presented the said cheque to the banker of the petitioner/accused through his banker. However, the banker of the petitioner/accused returned the said cheque with remarks "Funds Insufficient" vide memo dated 30.03.2009. Thereafter, the complainant/respondent No.2 requested the accused/petitioner to make the payment but he kept on lingering the matter and did not pay any amount. After that, respondent No.2/complainant served the petitioner/accused with legal notice dated 01.04.2009 vide postal receipt dated 02.04.2009, but despite the service of legal notice, petitioner/accused has failed to make the payment to respondent No.2/complainant. Hence, the present complaint.

4. The petitioner was convicted and sentenced vide judgment and order of sentence dated 18.01.2011 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 02.05.2013.

5. Learned counsel for the petitioner contends that the petitioner has been convicted by learned trial Court and sentenced to undergo a period of simple imprisonment for a period of one year along with default mechanism. Learned counsel submits that he is not assailing the impugned judgment of conviction dated 02.05.2013 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. As per the custody certificate dated 22.07.2013, the petitioner has undergone a total period of 02 months and 18 days and he is not involved in any other case.



6. *Per contra*, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which, the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of



the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The present complaint is of the year 2009 and the petitioner has been suffering the agony of protracted trial for the last about 16 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 22.07.2013, he is not involved in any other case and has undergone total sentence of 02 months and 18 days, out of total sentence of one year, in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present petition is disposed of in the following terms:

(i) The judgment dated 02.05.2013 passed by the learned Additional Sessions Judge, Kapurthala, affirming the judgment of conviction is upheld, however, the order of sentence dated 18.01.2011 is modified to the extent that the sentence of simple imprisonment for one year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of



Rs.10,000/- upon the petitioner.

(ii) The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

February 13, 2025
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(HARPREET SINGH BRAR)
JUDGE

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