



253 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2760-2015

Date of decision: 18.02.2025

GURMEET SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunny Singla, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

Mr. Navjeet Singh, Advocate for respondent Nos.2.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 13.07.2015 passed by learned Additional Sessions Judge, Sangrur, vide which, judgment of conviction and order on quantum of sentence dated 10.02.2014 passed by learned Judicial Magistrate Ist Class, Malerkotla 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	RI for 01 year with a fine of Rs.5,000/- in default of payment of fine to undergo RI for 01 week.

3. Brief facts of the present case are that on 27.02.2009, the petitioner along with co-accused, borrowed a sum of Rs.6,00,000/- from respondent No.2/complainant for one month, however, they did not return the amount after one month. Thereafter, in order to discharge their liability, they



issued a cheque, signed by the petitioner, bearing No.1650009 dated 27.04.2009 of Rs.6,00,000/- drawn on Canara Bank, outside Delhi Gate, Malerkotla from account No.2385 with the assurance that the cheque will be encashed upon presentation. However, when the cheque was presented, the same was dishonoured with remarks "Account Blocked/Dormant" with return memo dated 01.10.2009. Thereafter, the complainant/respondent No.2 served the petitioner and co-accused with notice of demand dated 12.10.2009, however, they failed to pay the amount within the stipulated period. Hence, the present complaint.

4. The petitioner was convicted and sentenced vide judgment of conviction and order of sentence dated 10.02.2014 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 13.07.2015.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 10.02.2014 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 his custody certificate, petitioner has undergone actual sentence of 02 months and 26 days.

6. *Per contra*, learned State counsel assisted by learned counsel for respondent No.2 opposes the prayer of the petitioner as 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 last more than 15 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate, petitioner has undergone actual sentence of 02 months and 26 out of total sentence of one year, in the instant case and is involved in one more 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 13.07.2015 passed by the learned Additional Sessions Judge, Sangrur, affirming the judgment of conviction is upheld, however, the order of sentence dated 10.02.2014 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to payment of Rs.10,000/- as fine to be deposited in the Court.

(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. Fine amount already deposited, if any, be adjusted.

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

February 18, 2025
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(HARPREET SINGH BRAR)
JUDGE

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