



Bank of India, Paschim Vihar, New Delhi. The complainant presented the said cheque for collection through his banker State Bank of India, Manesar Gurgaon but the said cheque was returned as unpaid due to “Funds Insufficient” vide return memo dated 22.04.2013 calling upon him to make payment of the said amount within 15 days from the date of receipt of the notice. Despite receipt of the said notice, the accused did not make the payment of cheque in question. Hence, the present complaint.

4. The petitioner was convicted and sentenced vide judgment dated 15.05.2014 and order of sentence dated 19.05.2014 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 22.01.2015.

5. Learned counsel for the petitioner contends that the petitioner has been convicted by learned trial Court and sentenced to undergo a period of rigorous imprisonment for a period of six months and he was also directed to pay compensation of Rs.7,50,000/- to the complainant. The petitioner has already given an amount of Rs.1,00,000/- to the respondent and an amount of Rs.2,00,000/- has been deposited by the petitioner before the Registry of this Court and the petitioner further undertakes to pay the remaining amount of Rs.4,50,000/-, within a period of 04 months. He is not assailing the impugned judgment of conviction dated 15.05.2014 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. Petitioner has undergone a total period of 10 days and he is not involved in any other case.

6. *Per contra*, learned counsel for the respondent opposes the prayer of the petitioner on the ground that the petitioner has not paid the compensation amount to him and 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 2015 and the petitioner has been suffering the agony of protracted trial for last more than 09 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his affidavit, he is not involved in any other case and has undergone total sentence of 10 days, out of total sentence of six months, 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 and the judgment dated 22.01.2015 passed by the learned Additional Sessions Judge, Gurgaon, affirming the judgment of conviction is upheld, however, the order of sentence dated 19.05.2014 is modified to the extent that the sentence of rigorous imprisonment for six months along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him, subject to paying the remaining compensation amount of Rs.4,50,000/- to the respondent-complainant within 04 months from today, failing which the petitioner shall be liable to undergo the remaining sentence, out of total sentence of 06 months RI, as awarded by learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

January 10, 2025
manisha

- (i) Whether speaking/reasoned
- (ii) Whether reportable

Yes/No
Yes/No