

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

220-3

CRR-779-2016

Date of decision: 28.11.2025

KANWAR MANJIT SINGH

....Petitioner

Versus

CHARANDEEP SINGH & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

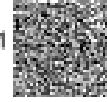
Present : Mr. Dinesh Maurya, Advocate for
Mr. G.S. Sandhu, Advocate for the petitioners.

Mr. Sandeep Khunger, Advocate with
Ms. Srishti, Advocate for respondent No.1.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR. J.(Oral)

1. Petitioner/accused has been held guilty and convicted by the Court of learned Judicial Magistrate Ist Class, Faridkot, vide judgment dated 25.11.2011 in Criminal Complaint No.RT248 of 02.07.2008/21.07.2011, under Section 138 of NI Act in a complaint instituted by respondent/complainant. As per version of complainant, petitioner-Kanwar Manjit Singh had taken loan of Rs.3,00,000/- from him and promised to repay the same within six months and in discharge of his above-said liability, accused issued one post dated cheque in favour of the complainant bearing cheque No.879023 dated 22.05.2008, amounting to Rs.One lac. The said cheque was issued in discharge of his existing liability by accused from his account No.01190007186 with State Bank of Patiala, Faridkot. The complainant presented the said cheque for encashment, but the same was returned with remarks "Funds Insufficient" vide memo dated 23.05.2008. Complainant



- 2-

served a notice dated 28.05.2008 through his counsel at the official and residential addresses of the accused, but even then, the accused had neither replied to the notice nor made the payment of cheque amount within 15 days from the receipt of notice.

2. Vide judgment dated 25.11.2011, the trial Court held the accused guilty and convicted him under Section 138 of NI Act and sentenced him to undergo rigorous imprisonment for a period of one year alongwith fine of Rs.10,000/-. In default of payment of fine, the petitioner was sentenced to undergo rigorous imprisonment for 30 days. Appeal filed by him was dismissed by the Appellate Court vide judgment dated 17.02.2016. On the same date, the petitioner – convict was ordered to be taken into custody so as to carry out the sentence.

3. Feeling aggrieved, this revision petition was filed on 23.02.2016.

4. Today, learned counsel for the petitioner stated at the outset that petitioner does not press the revision on merits and that he confines his prayer only qua the order of sentence. It is contended that petitioner will be satisfied, in case he is sentenced to imprisonment for the period already undergone by him. Learned counsel further contended that after the revision petition was instituted, he had deposited the cheque amount of Rs.1 lac by way of demand draft before a Co-ordinate Bench of this Court, vide order dated 25.02.2016, which was handed over to counsel for the respondent and as such, the cheque amount stands paid. Learned counsel contended that a lenient view may be taken with respect to the quantum of sentence as petitioner has already faced agony of trial since the year 2011 and he has already repaid the cheque amount. Learned counsel next contended that after the appeal was dismissed, he was taken into custody on



- 3-

17.02.2016 and this Court vide order dated 21.03.2016 had suspended the sentence and as such he has already undergone more than 01 month out of the total sentence of one year awarded to him and he may be sentenced for the imprisonment already undergone by him.

5. Learned counsel for respondent/complainant has opposed the aforesaid prayer but has admitted that the accused had paid the cheque amount of Rs.1 lac at the time of admission of the present revision petition. He further submits that petitioner does not deserve any leniency on the question of sentence.

6. Hon'ble Supreme Court in Criminal Appeal No.1755 of 2010-**Sanjabij Tari Vs. Kishore S. Borcar and Anr.**, relating to compounding of offences under Section 138 of NI Act, has issued fresh guidelines in modification of guidelines earlier issued in the judgment reported as (2010) 5 SCC 663 – **Damodar S. Prabhu Vs. Sayed Babalal H.** and has observed as under:-

“38. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this Court is of the view that it is time to ‘*revisit and tweak the guidelines*’. Accordingly, the aforesaid guidelines of compounding are modified as under:-

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.



- 4 -

(c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount.

39. This Court is of the view that if the accused is willing to pay in accordance with the aforesaid guidelines, the Court may suggest to the parties to go for compounding. If for any reason, the financial institutions/complainant asks for payment other than the cheque amount or settlement of entire loan or other outstanding dues, then the Magistrate may suggest to the Accused to plead guilty and exercise the power under Section 255(2) and/or 255(3) of the Cr.P.C. or 278 of the BNSS, 2023 and/or give the benefit under the Probation of Offenders Act, 1958 to the Accused.

7. In the present case, petitioner has been held guilty and convicted on account of dishonour of cheque for an amount of Rs.1 lac and he was sentenced to undergo rigorous imprisonment for one year besides payment of Rs.10,000/- as fine. No compensation was awarded to the complainant by the learned trial Magistrate. Cheque amount of Rs.1 lac has already been returned by way of demand draft, which was handed over to the counsel for the respondent. Petitioner is facing the present case since the year 2011 and as such, he has faced the agony of trial for a long time. He has also undergone one month and five days of sentence out of the total sentence of one year awarded to him and in my considered opinion, ends of justice will meet in case the sentence imposed upon the petitioner by the trial Court is modified and he is ordered to undergo

imprisonment for the period already undergone by him and it is ordered accordingly.

8. With the aforesaid modification in sentence, the revision petition stands dismissed.

9. Pending misc. application (s), if any, shall also stand disposed of.

28.11.2025
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No