

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

CRR-2576-2024 (O&M)

Date of decision: 28.01.2025

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anosh Samson, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred for setting aside the judgment dated 26.11.2024 passed by the learned Additional Sessions Judge, Ferozepur, upholding the judgment of conviction and order on quantum of sentence dated 21.08.2024 passed by the learned Judicial Magistrate 1st Class, Ferozepur, in complaint No.NACT/439/2022 dated 16.05.2022 under Section 138 of the Negotiable Instruments Act (in short ‘the Act’).
2. The petitioner was convicted and sentenced under Section 138 of the Act and was ordered to undergo rigorous imprisonment for a period of one year and to pay a compensation to the complainant equal to the cheque amount along with interest @ 9% per annum from the date of issuance of cheque till the date of order of sentence.
3. Brief facts of the case are that the petitioner had obtained a loan of Rs.1,50,000/- from the respondent for purchasing a new house and in discharge of her liability, she had issued a cheque bearing No.329325 dated 19.04.2022 amounting to Rs.1,50,000/- in favour of the complainant/respondent and on

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presentation of the same in the bank, it was returned and dishonoured vide memo dated 20.04.2022 with remarks 'destroyed'. Thereafter, a legal notice was served upon the petitioner on 27.04.2022 and the petitioner failed to make the said payment. Hence, the said complaint.

4. The petitioner was convicted vide judgment dated 21.08.2024 by the learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 26.11.2024.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 26.11.2024 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 she has already undergone the actual period of 03 months and 30 days and is not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioner, as the 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, she 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 Vs. 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

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case, which includes factors like gravity of the offence, the 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 Vs. 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 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. 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 complaint in the present case was lodged on 16.05.2022 and the petitioner has been suffering the agony of trial for the last 02 years. Since her conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per her custody certificate dated 27.01.2025, the

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petitioner is not involved in any other case and has undergone actual sentence of 03 months and 30 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 her.

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

- (i) The judgment dated 26.11.2024 passed by the learned Additional Sessions Judge, Ferozepur, affirming the judgment of conviction dated 21.08.2024 is upheld, however, the order of sentence dated 21.08.2024 is modified to the extent that the sentence of rigorous imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by her.

13. However, the compensation as awarded by the learned trial Court would remain intact and respondent would be at liberty to recover the same in accordance with law.

14. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.01.2025*Neha*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No