



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

229

CRR-454-2018(O&M)

Date of decision: 08.04.2026

Gurpreet Singh

...Petitioner

VERSUS

Harpal Singh Sidhu and another

...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. J.S. Grewal, Advocate for the petitioner.

Mr. Piyush Mittal, PH-2656-2024
Legal aid counsel for respondent No.1.

Dr. (Ms.) Savi Nagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The instant revision petition has been preferred against the judgment of conviction and order of sentence dated 22.11.2016 passed by the Judicial Magistrate First Class, Ferozepur vide which the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced to undergo rigorous imprisonment of 01 year with a fine of Rs.2,000/- and in default thereof to undergo simple imprisonment for a period of 01 month. Further challenge is made also to the judgment dated 20.12.2017 passed by the Sessions Judge, Ferozepur, vide which appeal filed by the petitioner has been dismissed.

2. Briefly stated, the present complaint arises out of an agreement to sell dated 25.01.2011 executed by the accused Gurpreet Singh and Yadwinder Singh in favour of the complainant and his uncle Jasbir Singh. As per the terms of the agreement, the accused agreed to sell their land, wherein 2/3rd share was to be transferred to the complainant and the remaining 1/3rd share to Jasbir Singh. At the time of execution of the

agreement, a sum of Rs.39,00,000/- was paid by the complainant and Jasbir Singh to the accused as earnest money. It was mutually agreed that the sale deed would be executed on 10.05.2011 upon payment of the balance sale consideration. However, the said date was subsequently extended to 12.09.2011. It was alleged that on the extended date, i.e., 12.09.2011, the accused and co-executant Yadwinder Singh failed to appear before the Tehsil Complex, Abohar for execution and registration of the sale deed. Thereafter, on 16.04.2012, an amount of Rs.3,00,000/- was paid to Yadwinder Singh; however, the same was not accounted for or returned to the complainant and Jasbir Singh. Subsequently, on 27.06.2012, a compromise was arrived at between the parties, whereby the accused agreed to refund the earnest money amount of Rs.39,00,000/- to the complainant and Jasbir Singh. In pursuance thereof, the accused paid Rs.10,00,000/- in cash and issued cheques towards the remaining liability, including cheque No. 052602 for Rs.6,00,000/- and cheque No. 052603 for Rs.7,00,000/- in favour of Jasbir Singh, and cheque No. 052604 for Rs.7,00,000/- in favour of the complainant. The balance amount of Rs.9,00,000/- was agreed to be paid subsequently. It is the case of the complainant that the cheque in question was issued by the accused in discharge of his legal liability. However, upon presentation of the said cheque for encashment, the same was dishonoured with the remarks "Insufficient Funds". Thereafter, the complainant served a legal notice upon the accused under Section 138 of the Negotiable Instruments Act, calling upon him to make payment of the cheque amount. Despite receipt of the notice, the accused failed to discharge the liability. On the basis of the aforesaid allegations, the present complaint

has been instituted.

3. In preliminary evidence, the complainant Harpal Singh appeared as CW1 and tendered his sworn affidavit in evidence as Ex. CW1/A. He also placed on record the original cheque as Ex. C1, the bank return memos as Ex. C2 and Ex. C3, the copy of the legal notice as Ex. C4, the postal acknowledgment receipt as Ex. C5, along with other supporting documents marked as Mark A to Mark E.

4. Finding a prima facie case against the accused, he was summoned to face trial and notice of accusation under Section 138 of the Negotiable Instruments Act was served upon him, to which he pleaded not guilty and claimed trial.

5. To substantiate his case, the complainant examined the following witnesses:

- i) CW1 Harpal Singh, the complainant himself, who, by way of affidavit Ex. CW1/A, reiterated the averments made in the complaint. He also tendered documents Ex. C1 to Ex. C5 and documents Mark A to Mark E in support of his case.
- ii) CW2 Nishan Singh, who corroborated the version of the complainant and deposed that a compromise (Mark CW2/4) had been effected between the accused, the complainant and Jasbir Singh, pursuant to which the accused had issued the cheque in question as well as other cheques in favour of the complainant and Jasbir Singh.
- iii) CW3 Surinderpal Singh, Civil Ahlmad in the Court of the learned SDJM, Abohar, who produced the summoned record of the case titled Harpal Singh vs. Gurpreet Singh and proved the agreement to sell as Ex. CW3/1, the writing regarding extension as Ex. CW3/2, the affidavit of Harpal

Singh and Jasbir Singh as Ex. CW3/3 and the compromise deed as Mark CW3/A.

iv) CW4 Raman, Sales Officer, HDFC Bank, Ferozepur City, who deposed that as per the cheque return register (Ex. CW4/2), the cheque in question had been returned unpaid on account of insufficient funds. He also tendered the statement of account of the complainant as Ex. CW4/1.

v) CW5 Sahil, Sales Officer, Axis Bank, Ferozepur City, who deposed that cheque No. 052603 was dishonoured due to insufficiency of funds in the account of the accused Gurpreet Singh. He tendered relevant documents marked as Mark A to Mark D.

6. Thereafter, evidence of the complainant was closed.

7. The statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the allegations and claimed trial.

8. After considering the arguments advanced, the testimonies of witnesses and the evidence placed on record, the Trial Court, vide judgment dated 22.11.2016, convicted the petitioner for commission of offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo rigorous imprisonment for a period of 01 year with a fine of Rs.2,000/- and in default thereof, to undergo simple imprisonment of 01 month.

9. Aggrieved by the aforesaid judgment of conviction and sentence, the petitioner preferred Criminal Appeal No. 66 of 2016 before the Sessions Judge, Ferozepur. However, vide judgment dated 20.12.2017, the

said appeal was dismissed, thereby affirming the conviction and sentence, hence, the present revision petition.

10. Since there is no representation on behalf of respondent No.1, it is deemed appropriate to appoint a legal aid counsel. Accordingly, Mr. Piyush Mittal, PH-2656-2024, who is present in the Court, is appointed as legal aid counsel to assist this Court on behalf of respondent No.1.

11. Counsel for the petitioner as well as respondent No.1 contend that there is no possibility of settlement amongst the parties.

12. At this stage, counsel for the petitioner submits that he does not intend to raise a challenge to the judgment dated 22.11.2016 passed by the learned Judicial Magistrate First Class, Ferozepur which was upheld by the Sessions Judge vide judgment dated 20.12.2017 and confines his submissions to the quantum of sentence. He has drawn the attention of this Court to certain mitigating circumstances in his favour. The same are as under :

- a. The trial Court had awarded a sentence of rigorous imprisonment for a period of one year. The petitioner has already undergone an actual custody of 4 months and 4 days, which constitutes a substantial portion of the sentence imposed.
- b. The occurrence in question pertains to the year 2011 and a considerable period of more than 15 years has elapsed since then, thereby diluting the need for continued incarceration.
- c. The petitioner has undergone the rigours and mental agony of prolonged criminal prosecution spanning over a decade and half.
- d. There is no material on record to suggest that the petitioner has been

involved in any other criminal case either prior to or subsequent to the present occurrence, thereby reflecting clean antecedents.

- e. The absence of any subsequent criminal conduct indicates that the petitioner has reformed and is leading a law-abiding life in society.
- f. The prolonged passage of time and the petitioner's conduct post-incident justify a reformatory approach rather than a strictly punitive one.
- g. In the totality of the circumstances, no useful purpose would be served by directing the petitioner to undergo the remaining period of sentence, and the ends of justice would be adequately met by reducing the sentence to the period already undergone.

13. Learned State counsel does not dispute the aforesaid aspects.

14. Learned legal aid counsel however submits that the petitioner has committed offence under the Negotiable Instruments Act, 1881 and the same stands proved. No leniency thus ought to be shown to the petitioner. The mitigating circumstances, referred to above, are however not disputed or denied.

15. This Court, in CRR-2697-2025 titled ***Lakshay Jain v. State of Punjab & Another***, vide order dated 14.11.2025, has held that sentencing must prioritise a reformatory approach, assessing an offender's background and circumstances rather than adopting a purely punitive stance. Mere involvement in an offence does not, by itself, establish criminality; instead, the totality of circumstances including the manner of the act, antecedents, conduct, and intent must guide sentencing. The law, therefore, distinguishes between errors of judgment and acts driven by deliberate mens rea, recognising that offenders are often capable of reform and should not be

presumed beyond rehabilitation. The relevant extract of the aforesaid judgment are as follows:

32. The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work “Criminology,” observed that:

“If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world.”

33. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is

that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

34. While 'retributive' object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.

35. While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the

offences arise due to human error or that stem from actions propelled by mens rea.

16. Adverting to the facts of the present case and the mitigating circumstances as pointed out by counsel for the appellant, it is established that the appellant has, undisputedly, faced the ordeal of a protracted criminal trial for nearly a decade. It is further evident that he has already undergone an actual custody of around 04 months and 04 days. Additionally, there is no material on record to indicate that the appellant has indulged in any criminal activity subsequent to his release on bail, thereby reflecting a reformed conduct. These circumstances demonstrate a clear reformatory tendency on the part of the appellant.

17. In view of the aforesaid, I am of the opinion that adequate and compelling mitigating circumstances exist in the present case and the same call for interference with the quantum of sentence. The peculiar facts and circumstances, as noticed hereinabove, justify a modification of the sentence in the interest of justice

18. Taking into consideration the facts and mitigating circumstances relied upon by the appellant, I deem it appropriate to **partly allow the present appeal**. While maintaining the judgment of conviction, the order of sentence is modified. The sentence awarded to the appellant vide judgment dated 22.11.2016 is accordingly modified and is reduced to the period already undergone by the appellant.

19. Pending application(s), if any, shall stand disposed of.

08.04.2026

Sumit Gusain

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

(VINOD S. BHARDWAJ)
JUDGE