



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CRR-1342-2026 (O&M)
Date of decision: 21.05.2026

DILBAGH SINGH

.....Petitioner

VERSUS

SURESH KUMAR

....Respondent

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

Present: Mr. Aditya Vinayak Bhanot, Advocate
for the petitioner.
(Through Video Conferencing).

VINOD S. BHARDWAJ. J.(Oral)

CRM-22627-2026

Prayer in the application is for condonation of delay of 02 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed and delay of 09 days in filing the appeal is condoned.

CRR-1342-2026

1. The present revision petition has been preferred against the judgment of conviction and order of sentence dated 25.11.2019 passed by the Sub Divisional Judicial Magistrate, Pehowa whereby the petitioner has been convicted and sentenced to undergo simple imprisonment for a period of 01 year and also directed to pay a sum of Rs. 3,31,000/- as

simple imprisonment for six months for commission of offence under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881. Further challenge has also been raised against the judgment dated 04.02.2026 passed by the Additional Sessions Judge, Kurukshetra whereby the appeal filed by the petitioner has been dismissed.

2. Briefly stated, the facts of the present case are that the complainant and the accused were on friendly terms and had entered into a partnership business relating to manufacture and sale of bricks in village Keorak, District Kaithal. It was alleged that for the said purpose, both parties constituted a partnership firm under the name and style of M/s Mehra Interlock Tile Industry, wherein the complainant and the accused held equal shares. It was alleged that the said firm commenced its business operations at village Arnaicha, Tehsil Pehowa, District Kurukshetra and that on 07.09.2014, disputes arose between the complainant and the accused in connection with the partnership business. In relation thereto, the accused submitted representations before the SHO, Police Station Pehowa, the Deputy Superintendent of Police, Pehowa and the Superintendent of Police, Kurukshetra. It was further stated that on 19.11.2014, a compromise was arrived at between the parties, pursuant whereunto the accused agreed to pay a sum of Rs.3,31,000/- to the complainant. In acknowledgment of the said liability, the accused executed an affidavit attested by a Notary Public at Pehowa. According to the complainant, in discharge of the aforesaid liability, the accused issued cheque bearing No. 582000 dated 20.01.2015 for an amount of Rs.3,31,000/- in favour of the complainant. However, upon presentation

of the said cheque through the banker of the complainant, the same was dishonoured and returned unpaid vide memo dated 07.03.2015 with the remarks "Funds Insufficient". It was further alleged that thereafter the complainant, through counsel, issued a legal notice dated 19.03.2015 to the accused calling upon him to make payment of the cheque amount within the stipulated statutory period. However, despite receipt of the said notice, the accused failed to discharge the liability within the prescribed time. On the basis of the aforesaid allegations, the complainant instituted the present complaint seeking prosecution and punishment of the accused under Section 138 of the Negotiable Instruments Act, 1881.

3. The petitioner-revisionist was summoned by the trial court vide order dated 05.08.2015 to face trial under section 138 of the NI Act and vide order dated 10.12.2015, notice of accusation was served upon him to which he did not plead guilty and claimed trial.

4. In order to establish the guilt of the petitioner-revisionist the complainant examined himself as CW1 and Rajbir Singh, Notary Public, Pehowa as CW2. Thereafter, complainant's evidence was closed.

5. The entire incriminating material was put to the petitioner-revisionist and he was examined under Section 313 Cr.P.C. to which he pleaded innocence but no evidence was led by him in his defense.

6. On consideration of the evidence on record and hearing the parties, the petitioner-revisionist was convicted by the Sub Divisional Judicial Magistrate, Pehowa vide judgment of conviction and order of sentence dated 25.11.2019 and sentenced as mentioned above. Appeal against the order of conviction & sentence was also dismissed by the

Additional Sessions Judge, Kurukshetra vide judgment dated 04.02.2026.

Hence, the present petition.

7. Learned counsel appearing on behalf of the petitioner fairly submits that the petitioner does not intend to assail or challenge the findings of conviction recorded by the Courts below on merits. It is contended that the petitioner accepts the verdict of guilt and confines the present challenge solely to the quantum and nature of sentence imposed upon him. Having regard to the facts and circumstances of the case, the following mitigating circumstances have been pointed out:

- a. The occurrence in question pertains to the year 2015 and more than a decade has elapsed since the registration of the case.
- b. The petitioner has faced the rigours, anxiety and mental agony of protracted criminal proceedings for nearly 11 years, which itself constitutes a significant mitigating circumstance while considering the question of sentence.
- c. The petitioner does not seek to challenge the conviction on merits and confines the prayer only to reduction of sentence, thereby reflecting acceptance of the verdict.
- d. The petitioner has already undergone actual custody of approximately 8 months and 01 day out of the total substantive sentence of one year imposed upon him.
- e. There is no allegation or material on record to indicate that the petitioner has been involved in any other criminal case, either prior to or subsequent to the present occurrence.
- f. The absence of any criminal antecedents or subsequent involvement in

similar offences indicates that the petitioner has reformed himself and has successfully reintegrated into the mainstream of society.

- g. The conduct of the petitioner during the pendency of proceedings has remained satisfactory and there is nothing on record suggestive of misuse of concession of bail or any attempt to evade the process of law.
- h. The prolonged pendency of the proceedings itself has operated as a substantial punitive factor and the petitioner has remained under continuous psychological and social stress owing to the criminal prosecution.
- i. The penal consequences imposed upon the petitioner, in the peculiar facts and circumstances of the present case, deserve to be moderated so as to balance the ends of justice with the principles of proportionality and reformatory sentencing.

8. I have heard learned counsel for the petitioner and has gone through the case record. In the totality of circumstances and noticing the limited prayer and only a limited sentence remaining, service on respondent is dispensed with. The same would only cost an unnecessary burden on the respondent and may render the petition infructuous.

9. Since learned counsel for the petitioner has expressly confined the challenge only to the quantum of sentence and has not assailed the findings of conviction recorded by the Courts below, this Court does not deem it necessary to reappreciate the evidence or examine the matter on merits with regard to the culpability of the petitioner. The present petition is, therefore, being considered only to the limited extent

of examining whether, in the facts and circumstances of the case and in light of the mitigating factors pointed out on behalf of the petitioner, any indulgence is warranted on the aspect of sentence.

10. 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.

11. Having heard learned counsel for the petitioner and keeping in view the fact that the occurrence pertains to the year 2015; that the petitioner has already undergone substantial part of the substantive sentence; that he has faced the agony and rigours of protracted criminal proceedings for nearly 11 years; that he is not shown to be involved in any other criminal case; that his conduct during the pendency of proceedings has remained satisfactory and further considering that the petitioner has

not challenged the conviction on merits and has confined his prayer only to the question of sentence, this Court is of the view that the case warrants adoption of a compassionate and reformatory approach in the matter of sentencing. The cumulative effect of the aforesaid mitigating circumstances persuades this Court to hold that the ends of justice would be adequately served by suitably modifying the sentence imposed upon the petitioner.

12. In the totality of the circumstances, I am satisfied that adequate and compelling mitigating factors exist which justify interference with the quantum of sentence. The peculiar facts of the present case, as noticed hereinabove, clearly make out a case for reduction of the sentence to the period already undergone, as any further incarceration would not serve the ends of justice.

13. Accordingly, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded to the petitioner for commission of offenses under Section 138 of the NI Act by the Sub Divisional Judicial Magistrate, Pehowa vide order dated 25.11.2019 and affirmed by the Additional Sessions Judge, Kurukshetra vide judgment dated 04.02.2026, is modified and reduced to the period already undergone by him but without any prejudice to the compensation awarded to the respondent-complainant and he shall be at liberty to seek recovery thereof in accordance with law.

14. The petitioners, if confined in jail and not required in any other case, shall be released forthwith, in accordance with law.

15. Since the main case has been partly allowed, the application bearing CRM-22628-2026 seeking suspension of sentence is disposed of as having been rendered infructuous.

16. All the pending miscellaneous application(s), if any, are also disposed of.

MAY 21, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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