



255 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-43-2012 (O & M)
Date of decision: 30.01.2025

CHAMAN LAL

...PETITIONER

V/S

PUNJAB STATE WAREHOUSING CORPORATION AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravi Gakhar, Advocate for
Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. Nitin Meel, Advocate for
Mr. K.B. Raheja, Advocate
for respondent No.1.

Mr. Nitesh Sharma, DAG, Punjab.

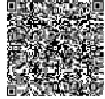
HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 09.11.2011 passed by learned Additional Sessions Judge, Fatehgarh Sahib, vide which, judgment of conviction and order on quantum of sentence dated 04.11.2009 passed by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib in a complaint case filed under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act') have been upheld.

2. The petitioner was sentenced as under:

Offence	Sentence
138 NI Act	RI for 01 year with a fine of Rs.5,000/- in default of payment of fine to undergo RI for 02 months.

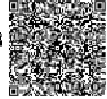
3. Complainant Punjab State Warehousing Corporation Limited, Fatehgarh Sahib through Surjit Singh Warehouse Manager, has filed the



present complaint under section 138 of the Negotiable Instrument Act (for short 'Act') against accused Sukhdev Kumar and Chaman Lal (petitioner herein) partners of M/s Shree Rice Mills, Sanghol (Ucha Pind), Tehsil Khamanon, District Fatehgarh Sahib on the ground that in the year 1998-99 complainant gave 97313 bags weighing 63253.4 M.T. to the accused firm for milling purposes. The accused firm returned 85794 bags i.e. 55766.10 M.T. of milled rice to the complainant and 11519 bags weighing 7487.35 M.T. paddy remained with the accused firm. It is alleged that in lieu of the price of, remaining paddy the accused firm issued a cheque No.CA/24-510917 dated 31.12.2000 for Rs. 17,00,000/- in favour of the Punjab State Warehousing Corporation, Chandigarh of State Bank of Patiala, branch Khamanon Mandi. The complainant presented the above said cheque on 01.02.2001 to its banker i.e. State Bank of Patiala, branch Khamanon Mandi to credit the same in its account No.713. However the said cheque was returned back to the complainant by the banker on 01.02.2001 with the memo with remarks that there are 'Insufficient Funds' in the account. It is alleged that on receipt of said cheque back being dishonoured, complainant has issued notice through their counsel Sh. Hardip Singh, Advocate on 07.02.2001 to make payment of dishonoured cheque within 15 days from the receipt of notice. However, the payment was not made. Hence, the present complaint.

4. The petitioner was convicted and sentenced vide judgment dated 04.11.2009 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 09.11.2011.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 09.11.2011 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the

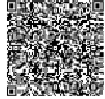


sentence already undergone by the petitioner. As per order dated 18.04.2012 passed by this Court, petitioner has undergone actual sentence of more than five months out of total sentence of one year.

6. *Per contra*, learned State counsel assisted by learned counsel for respondent No.1 opposes the prayer of the petitioner as 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.

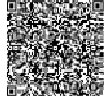
9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The present complaint is of the year 2007 and the petitioner has been suffering the agony of protracted trial for last 18 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per order dated 18.04.2012 passed by this Court, petitioner has undergone actual sentence of more than five months 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 him.

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

- (i) the judgment dated 09.11.2011 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, affirming the judgment of conviction is upheld, however, the order of sentence dated 04.11.2009 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism



awarded to the petitioner is reduced to the period of sentence already undergone by him subject to payment of Rs.10,000/- as fine to be deposited in the Court.

(ii) The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

13. Pending miscellaneous application(s), if any, also stand(s) disposed of.

January 30, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |