



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

**CRR-1531-2010 (O&M)  
Reserved on: 26.03.2025  
Pronounced on: 02.04.2025**

**Padam Saini**

**... Petitioner**

**Vs.**

**Gopal Yadav**

**... Respondent**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Rahul Bansal, Advocate (*Amicus Curiae*)  
for the petitioner.

Mr. Devender Kumar, Advocate  
for the respondent.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. Present revision petition has been preferred against the judgment dated 12.03.2010 passed by learned Additional Sessions Judge, Faridabad, vide which judgment of conviction dated 04.08.2009 passed by learned Additional Chief Judicial Magistrate, Faridabad, in Criminal Complaint bearing No.345, instituted on 07.09.2006, titled as '*Gopal Yadav Vs. Padam Saini*', under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act'), was upheld, however, the order of sentence dated 06.08.2009 was modified.



2. The petitioner was convicted under Section 138 of NI Act for having failed to return the cheque amount i.e. Rs.2.00 lakhs and was ordered to undergo simple imprisonment for a period of six months and to pay a sum of Rs.50,000/- as compensation along with default mechanism. Aggrieved by the same, the petitioner preferred an appeal before learned Additional Sessions Judge, Faridabad and vide impugned judgment dated 12.03.2010, judgment of conviction dated 04.08.2009 passed by learned trial Court was upheld, however, the order of sentence dated 06.08.2009 was modified to the extent that the petitioner would pay a sum of Rs.3.00 lakhs as compensation to the respondent. Hence the present revision petition.

3. Learned *Amicus Curiae* appearing for the petitioner, *inter alia*, contends that there is not an iota of evidence available on record against the petitioner to convict him. Admittedly, the petitioner borrowed Rs.50,000/- from the respondent and he repaid an amount of Rs.15,000/-, as such, he is liable to be pay the balance amount of Rs.35,000/- to him. The respondent, with malafide intention, misused the cheque in question, which was given by the petitioner to him as security. Further, learned lower appellate Court fell into grave error, while upholding the judgment of conviction dated 04.08.2009, by passing the impugned judgment dated 12.03.2010, which is in verbatim to the judgment passed by learned trial Court and enhancing the amount of compensation from Rs.50,000/-, as awarded by learned trial Court vide order of sentence dated 06.08.2009, to Rs.3.00 lakhs. He further submits



that the petitioner has already undergone actual sentence of 04 months and 02 days and is not involved in any other criminal activity.

4. *Per contra*, learned counsel for the respondent 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 had been upheld by learned lower appellant Court and as such, he does not deserve any leniency.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was convicted for having failed to return the cheque amount, attracting the offence of Section 138 of NI Act, for which no minimum punishment has been prescribed. As per his custody certificate, the petitioner is not involved in any other case and has already undergone an actual sentence of 04 months and 02 days, in the instant case. Since there is no minimum punishment prescribed under Section 138 of NI Act, 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.

6. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, 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.

7. Further, 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 realize 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.

8. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the complaint (*supra*) was instituted on 07.09.2006 and the petitioner has been suffering the agony of trial for last more 18 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life.



9. Consequently, the present revision petition is disposed of and the judgment dated 12.03.2010 passed by learned Additional Sessions Judge, Faridabad, affirming the judgment of conviction dated 04.08.2009 and enhancing the amount of compensation to Rs.3.00 lakhs from Rs.50,000/-, granted by learned trial Court vide order of sentence dated 06.08.2009, is upheld and the order of sentence is further modified to the extent that the sentence of simple imprisonment for six months along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

10. The compensation amount of Rs.3.00 lakhs awarded by learned Additional Sessions Judge, Faridabad, vide impugned judgment dated 12.03.2010, shall remain intact and the respondent would be at liberty to recover the same, in accordance with law.

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

12. The High Court Legal Services Committee is directed to pay the remuneration to learned *Amicus Curiae*, as per relevant Rules/Orders.

**[ HARPREET SINGH BRAR ]**  
**JUDGE**

02.04.2025  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No