

**CRR-2535-2010****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****206****CRR-2535-2010****Date of Decision: 16.09.2025****KAMLESH SHARMA****... PETITIONER****VERSUS****STATE OF PUNJAB & ANR****... RESPONDENTS****CORAM : HON'BLE MR. JUSTICE H.S.GREWAL**

Present:- Ms. Anmol Thakur, Advocate for  
Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

None for respondent No.2.

**H.S. Grewal, J.(Oral)**

1. This revision petition has been filed against the judgment dated 04.05.2009 passed by Id. Addl. Sessions Judge, dismissing the appeal filed by the petitioner against the judgment dated 03.03.2008 of the Id. Judicial Magistrate Ist Class, Jalandhar whereby the petitioner was convicted under Section 138 of Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 5,000/- or in default to undergo further rigorous imprisonment for a period of one month.

2 The allegations levelled against the petitioner are that the complainant paid her a sum of Rs. 80,000/- in February 2005, with the understanding that it would be returned on demand. When the complainant later requested the repayment, the petitioner issued a cheque bearing No. 420217 dated 10.08.2005. However, upon presentation, the cheque was dishonoured by the bank due to "insufficiency of funds," as vide memo dated 30.01.2006.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction on merits and restricts his prayer qua



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modification of the order on quantum of sentence. He also contends that the petitioner has already undergone a period of more than 04 months out of awarded sentence of 01 years and stated that the petitioner is not involved in any other case.

4. Learned State counsel has opposed the prayer of the petitioner and submits that the Courts below has passed a well reasoned judgment based on correct appreciation of evidence available on record for dishonour of cheque.

5. None has put in appearance on behalf of respondent No.2.

6. I have heard learned counsel for the parties and have gone through the material placed on record.

7. The complaint in this case pertains to the year 2008 and he has already faced the rigors of the trial for more than 17 years.

8. Hon'ble the Supreme Court in "*Deo Narain Mandal Vs. State of UP*", (2004) 7 SCC 257, has held 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, 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.

9. Further, a two-Judge Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP*, AIR 2017 SC 1166, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the

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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.

10. 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. However, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the petitioner.

11. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2008. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The petitioner has already suffered the agony of protracted trial, spanning over a period of more than 17 years and has been in the corridors of the court for this prolonged period. She remained incarcerated for more than 04 months. In view of the facts noted above, the case of the petitioner deserves to be dealt with leniency. The petitioner also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of *Haripada Das Vs. State of West Bengal* reported in (1998) 9 SCC 678 and *Alister Anthony Pareira vs. [2023:RJ-JD:28174] (5 of 5) [CRLR-755/2003] State of Maharashtra* reported in 2012 2 SCC 648 and considering the facts and

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circumstances of the case, age of petitioner, his status in the society and the fact that he faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be met, if sentence imposed upon the petitioner is reduced to the one already undergone by her.

12. Accordingly, judgment of conviction and order of quantum of sentence dated 03.03.2008 passed by learned Judicial Magistrate Ist Class, Jalandhar and judgment dated 04.05.2009 passed by Id. Addl. Sessions Judge are affirmed but the quantum of sentence awarded by the Court concerned under Section 138 of NI Act has been modified and reduced to the period of sentence she has already undergone till date. The petitioner is on bail. She need not to surrender. Her bail bonds are discharged. However, the amount of fine of Rs.5,000/- imposed upon the petitioner by the Id. trial Court is enhanced to Rs. 10,000/-. The petitioner is directed to deposit the enhanced amount of fine in learned trial Court within a period of one month from the date of receipt of certified copy of this order and in case of default of payment of fine, she will be liable to be taken into custody and made to undergo rigorous imprisonment for a period of one month.

13. With these modifications, the present revision petition is disposed of.

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

**16.09.2025***renu***(H.S.GREWAL)  
JUDGE**

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