



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

**CRR No.1154 of 2017(O&M)
Date of decision: 03.05.2025**

Lakhwinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Upender Prashar, Advocate
for the petitioner.

Mr. Mavpreet Singh, DAG, Punjab

None for respondent No.2.

H.S. GREWALJ.

1. By filing the present criminal revision petition, the petitioner has challenged the order of judgment and conviction dated 18.09.2015 in a Complaint Case No. 23684 of 2013 dated 15.06.2013, under Section 138 of the Negotiable Instruments Act, vide which he has been convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.6000/- in default to undergo simple imprisonment for 03 months as well as the judgment dated 06.03.2017 passed by learned Appellate Court-Additional Sessions Judge, Amritsar, vide which appeal filed by the appellant against the judgment of conviction and order of sentence passed by learned trial Court has been dismissed.

2. Brief facts of the complainant's case are that the petitioner, herein, took loan from him and in order to discharge his legal debt/liability, he issued cheque bearing No. 188223 dated 10.04.2013 for a sum of Rs.2,50,000/- drawn on the Amritsar Central Coop. Bank Limited, East Mohan Nagar, Amritsar, in his favour. The complainant presented the aforesaid cheque to the Bank, which was dishonoured with the remarks "Insufficient Funds" vide memo dated 08.05.2013.

3. None has put in appearance on behalf of respondent No.2 despite service.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction and order of sentence dated 06.03.2017 passed by learned Appellate Court-Additional Sessions Judge, Amritsar, vide which the judgment of conviction and order of sentence dated 18.09.2015, passed by learned trial Court in a complaint case No. 23684 of 2013 dated 15.06.2013, has been upheld, on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the petitioner, as he has already undergone a period of 04 months and 20 days. He has also produced the original copy of receipt with regard to deposit of fine of Rs.6,000/-, which is taken on record. He further prays that since the complaint in question pertains to the year 2013, a lenient view may be taken while passing an order/ judgment by this Court.

5. On the other hand, learned State counsel opposes the prayer of the petitioner by way of filing of custody certificate

dated 02.05.2025 on the ground that the learned Courts below have passed a well reasoned judgment based on correct appreciation of evidence available on record.

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

7. The petitioner has been convicted in a criminal complaint under Section 138 of N.I.Act filed by the complainant by learned trial Court vide order of judgment and conviction dated 18.09.2015 for dishonouring the cheque in question duly issued by the petitioner and the appeal filed against the aforesaid order of judgment and conviction passed by learned trial Court, has been dismissed vide order dated 06.03.2017. Moreover, the complaint case pertains to the year 2013 and he has already faced the rigors of trial/proceedings for more than 12 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-Judges 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 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 as well as by learned Appellate Court indicate no perversity in its findings and the same are 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. Since the complaint case was filed in the year 2013 and the petitioner has been suffering the agony of trial/proceedings since the last more than 12 years, while taking a lenient view, 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. In view of above, the present criminal revision petition is **disposed of** by upholding the judgment of conviction dated 06.03.2017 passed by the learned Appellate Court-Additional Sessions Judge, Amritsar, however the order of sentence dated 18.09.2015 is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year imposed upon the appellant is reduced to the period of sentence already undergone by him. However, the amount of fine imposed upon the appellant shall remain the same.

13. The petitioner be set at liberty if not required in any other case.

14. With this modification in the quantum of sentence, the revision petition is disposed of accordingly.

03rd May, 2025
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(H.S. GREWAL)
JUDGE

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