



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 379 of 2016

Gurudayal Singh S/o Ajit Singh Aged About 42 Years R/o House No. 239, Zone -3, B.S.P. Campus, Ward No. 34, Kranti Market Khursipar, Police Station Bhilai - Bhatti, Bhilai, Tahsil And District Durg Chhattisgarh

--- Applicant

versus

1 - Ku. Babita Bhaisare D/o Parasram Bhaisare Aged About 41 Years R/o New Khursipar, Bhilai, Tahsil And District Durg Chhattisgarh

2 - State Of Chhattisgarh Through District Magistrate, Durg Chhattisgarh,

--- Respondents

CRR No. 389 of 2016

1 - Smt. Balwant Kaur @ Kulwant Kaur W/o Shri Ajit Singh Aged About 68 Years R/o House No. 239, Zone-3, Bsp Campus, Ward No. 34, Kranti Market Khursipar, Police Station Bhilai-Bhatti, Bhilai, Tahsil And District Durg Chhattisgarh.

---Applicant

Versus

1 - Ku. Babita Bhaisare And Anr. D/o Parasram Bhaisare Aged About 41 Years R/o New Khusipar, Bhilai, Tahsil And District Durg Chhattisgarh.

2 - State Of Chhattisgarh Through District Magistrate, Durg Chhattisgarh.

--- Respondents

For Applicants : Shri Jitendra Gupta, Advocate in both the matters.

For Respondent 1 : Ms. Priyanka Rai Advocate in both the matters.

For Respondent : Shri Narayana Prasad, P.L. in both the matters.
2/State

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)

Order on Board

16/02/2026

- Since both the above captioned revisions arise out of the same impugned judgment dated 21.04.2016, they are being heard together and disposed of by this common order.

2. Criminal Revision No.379/2016 preferred by the applicant – Gurudayal Singh under Section 397/401 Cr.P.C. is directed against the judgment dated 21.04.2016 passed by the 3rd Additional Sessions Judge, Durg in Criminal Appeal No.25/2016 whereby the judgment dated 05.01.2016 passed by the J.M.F.C. Durg in Complaint Case No.296/2011 convicting the applicant under Section 138 of the Negotiable Instruments Act, 1881 (for short, the NI Act) and sentencing him to SI for one month with fine of Rs.60,000/- and in default thereof, to undergo further SI one month, has been modified by the appellate Court as under:

CONVICTION	SENTENCE
Under Section 138 of the NI Act	Simple Imprisonment for 15 days with fine of Rs.69,500/- and in default thereof, to undergo further SI for three months.

3. Criminal Revision No. 389/2016 preferred by the applicant – Smt. Balwant Kaur @ Kulwant Kaur under Section 397/401 Cr.P.C. is directed against the judgment dated 21.04.2016 passed by the 3rd Additional Sessions Judge, Durg in Criminal Appeal No.23/2016 whereby the judgment dated 05.01.2016 passed by the J.M.F.C. Durg in Complaint Case No.295/2011 convicting the applicant under Section 138 of the Negotiable Instruments Act, 1881 (for short, the NI Act) and sentencing her to SI for one month with fine of Rs.90,000/- and in default thereof, to undergo further SI one month, has been modified as under:

CONVICTION	SENTENCE
Under Section 138 of the NI Act	Till Rising of the Court with fine of Rs.90,000/- and in default thereof, to undergo further SI for two months.

4. Brief facts as projected by the applicants are that the applicant Gurudayal borrowed a sum of Rs.50,000/- from respondent No.1 and issued cheque to her on 05.08.2011 which was presented by her on 06.08.2011 in the Bank, but the same was dishonored. Similarly, applicant Smt. Balwant Kaur also borrowed a sum of Rs.75,000/- from respondent No.1 and in order to repay the amount, she issued a cheque to her on 07.04.2011, which was presented by respondent No1 on 06.08.2011, but the same also stood dishonored. The complainant had issued notice to both the applicants on 17.08.2011, which was refused by them to receive, which led to filing of the complaint case by respondent No.1 before the J.M.F.C. Durg.
5. Learned J.M.F.C. Durg, after appreciation of the evidence and material available on record, convicted and sentenced both the applicants as mentioned in para 1 of this order. The learned appellate Court vide its judgment dated 21.04.2016 has modified the judgment as shown in opening paragraphs. Hence, these revisions.
6. In *Cr. Revision No.379/2016*, learned counsel for the applicant - Gurudayal submits that he is not challenging the conviction of the applicant but confines his argument to sentence part only, which according to him is on higher side. He further submits that the applicant was in jail since 21.04.2016 to 28.04.2016 for a period of 8 days and had no criminal antecedents and that he is facing the */is* since September, 2011, i.e. for more than 14 years. He further submits that during trial the applicant was on bail and never misused the liberty granted to him. Therefore, the jail sentence awarded to the applicant may be reduced to the period already undergone by him. In *Cr.*

Revision No. 389/2016, while not challenging the sentence of till rising the Court imposed by the appellate Court, he submits that the compensation of Rs.90,000/- awarded under Section 357 (3) of the Cr.P.C. by the appellate Court is on higher side, which may suitably be reduced.

7. On the other hand, learned counsel for respondent No. 1 opposes the submissions made by the learned counsel for the applicants and submits that the cheques amounting to Rs. 50,000/- and Rs. 75,000/- were issued by the applicants. Since both the cheques were dishonoured, the learned appellate Court, after considering the amounts mentioned therein and including interest, awarded just and reasonable compensation to respondent No. 1. The said compensation is not on the higher side; rather, as per the relevant provisions of law, compensation up to double the cheque amount can be awarded.
8. The learned State Counsel also opposes the revisions and supports the impugned judgment.
9. I have heard learned counsel appearing on behalf of the parties and perused the record.
10. It is not disputed that the cheques were issued by the applicants and the signatures contained in the cheques are also not disputed. Therefore, from the statement of complainant – Ku. Babita Bhaisare (P.W.1) and exhibited material documents available on record, both the learned trial Court and appellate Court, after appreciating the evidence and material available on record, have rightly convicted the

applicants under Section 138 of the NI Act and I hereby affirm the same.

11. So far as jail sentence of the applicant – Gurudayal Singh in Cr. Revision No. 379/2016 is concerned, considering the above facts and circumstances of the case, particularly, considering the fact that the applicant has undergone for a period of 8 days, he is facing the */is* since September 2011, i.e., for more than 14 years and there is no criminal antecedents against him, I am of the view that no purpose would be served in sending the applicant back to jail as the object of criminal justice would be served in awarding the sentence already undergone by him.
12. Similarly, in Cr. Revision No.389/2016, although the applicant - Balwant Kaur @ Kulwant Kaur was sentenced to till rising of the Court and there is no challenge by the applicant in this regard, but considering the facts and circumstances of the case and looking to the relevant provisions of law whereby compensation up to double the cheque amount can be awarded, the compensation amount of Rs.90,000/- after including interest, imposed by the learned appellate Court is just and reasonable compensation, which does not call for interference.
13. In view of foregoing discussion, the Criminal Revision No. 379/2016 filed by the applicant – Gurudayal Singh is partly allowed. The conviction of the applicant under Section 138 of N.I.Act is affirmed and he is sentenced to the period already undergone by him, while keeping in tact the fine sentence and the default sentence imposed under the said offence. However, the Criminal Revision No.389/2016 filed by

Smt.Balwant Kaur stands dismissed.

14. Since the applicant – Gurudayal Singh is reported to be on bail, therefore, his bail bonds shall remain in force for a period of six months from today in view of provision of Section 481 of Bhartiya Nagrik Suraksha Samhita, 2023.

Sd/-

(Radhakishan Agrawal)

JUDGE