



2026:CGHC:13198



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2097 of 2019

Pooran Lal Peshwani S/o Shri Laxman Das Peshwani Aged About 59 Years R/o Shadani Darbar, Near Sindhi Gurudwara, Pandri, District-Raipur, Chhattisgarh.

... **Petitioner(s)**

versus

Om Prakash Singh S/o Shri Ashok Singh Aged About 50 Years R/o Capital City Phase-Iii, Vidhan Sabha Road, Saddu, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

... **Respondent(s)**

For Petitioner(s) : Mr. Prashant Sahu holding brief of Mr. Sharad Mishra, Advocate

For Respondent(s) : None

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

19.03.2026

1. Heard Mr. Prashant Sahu holding brief of Mr. Sharad Mishra, learned counsel for petitioner. None appeared on behalf of respondent.
2. The present petition has been filed by the petitioner with the



following prayers:

“1. That, this Hon'ble Court may kindly be pleased to allow this application and call for the entire records pertaining to present case from the trial court below.

2. That, this Hon'ble Court may kindly be pleased quash/set aside the impugned order/judgment dated 23-07-2018 and thereby maintain the order/judgment passed by Learned Trial Court dated 30-11-2017.

3. That, this Hon'ble Court may kindly be pleased to direct the accused/respondent to grant compensation amounting to Rs. 5,00,000/- to the present applicant along with interest @ 18% per annum from the date of filing of complaint case before the learned Trial Court, in the ends of justice.

4. That, any other relief/remedy which this Hon'ble Court may deem fit and proper in the ends of rendering substantial justice may also be granted to the applicant along with cost of the present application.”

3. The present case arises out of a complaint instituted by the complainant under Section 138 of the Negotiable Instruments Act on account of dishonour of cheque bearing No. 501981 drawn on SBI, Pandri Branch for an amount of Rs. 2,50,000/-, which had been issued by the accused towards discharge of a legally enforceable debt but was returned unpaid due to insufficiency of funds. The complaint was registered as Criminal Complaint No. 1723/2014 before the learned JMFC, Raipur, who, upon due appreciation of the evidence adduced by the parties, vide judgment dated 30.11.2017, held the accused guilty of the offence under Section 138 of the Act and sentenced him to six months' simple



imprisonment along with payment of compensation equivalent to the cheque amount, with a further stipulation of default imprisonment. Aggrieved thereby, the accused preferred an appeal, and the learned Appellate Court, vide judgment dated 23.07.2018, allowed the appeal and acquitted the accused primarily on the ground that the cheque amount had been deposited subsequent to the conviction. The correctness and legality of the said appellate judgment, particularly the propriety of acquittal solely on account of post-conviction payment despite the offence having been duly established, falls for consideration in the present proceedings.

4. Learned counsel for the petitioner contends that the impugned judgment and order dated 23.07.2018 passed by the learned Appellate Court cannot be sustained in the eyes of law, as the same suffers from manifest illegality, perversity and non-application of mind. It is submitted that the appellate Court has failed to properly appreciate the oral and documentary evidence available on record and has erroneously proceeded to acquit the respondent/accused solely on the ground of subsequent deposit of the cheque amount, ignoring the settled legal position that once the ingredients of the offence under Section 138 of the Negotiable Instruments Act stand established, subsequent payment does not ipso facto absolve the accused of criminal liability. It is further observed that the learned Trial Court, after due appreciation of evidence, had rightly recorded conviction and awarded sentence along with compensation, however, the Appellate Court, without



assigning cogent and legally sustainable reasons, interfered with the well-reasoned judgment and reduced the consequences to a mere formality by granting inadequate compensation of Rs. 30,000/-, which is neither just nor commensurate with the prolonged litigation and harassment suffered by the complainant for more than five years. Further, the appellate court overlooked relevant circumstances, including the conduct of the accused and the delay in payment, thereby rendering the impugned findings arbitrary and unsustainable. Consequently, the impugned judgment being contrary to law, facts and the principles governing adjudication under Section 138 of the Act, deserves to be set aside.

5. I have heard learned counsel for the petitioner and perused the documents appended with petition.
6. A perusal of the impugned judgment and order would go to show that the learned Appellate Court, while partly allowing the appeal, has upheld the conviction of the accused under Section 138 of the Negotiable Instruments Act, however, has substantially interfered with the sentence and compensation awarded by the learned Trial Court in a manner which reflects improper exercise of judicial discretion. In paragraph (23), the appellate court, despite taking note of the existence of multiple cheque dishonour cases against the accused, proceeded to treat the offence as a first proven offence in absence of proof of prior conviction and, relying upon judicial precedent, reduced the substantive sentence of six months' simple imprisonment to imprisonment till rising of the court. Further,



in paragraph (24), the court observed that the principal loan amount of Rs.2,50,000/- had been repaid subsequent to the trial court's order and, on that basis, awarded only an additional sum of Rs.30,000/- with interest at the rate of 6% per annum, thereby marginally enhancing the compensation to Rs. 2,80,000/-. Thereafter, in paragraph (25), while maintaining the conviction, the appellate Court modified the sentence and directed payment of the enhanced compensation within a stipulated period of one month, with a default stipulation of one month's simple imprisonment. And finally, in paragraph (26), specific directions were issued to secure the presence of the accused before the trial court for undergoing sentence till rising of the court, including issuance of warrant in case of non-appearance. Thus, the impugned order clearly demonstrates that although the guilt of the accused stood affirmed, the appellate court has significantly diluted the penal consequences by reducing the sentence and awarding only nominal additional compensation.

7. In view of the foregoing analysis and upon careful consideration of the submissions advanced, this Court finds no illegality, perversity or jurisdictional error in the impugned judgment and order dated 23.07.2018 passed by the learned Appellate Court warranting interference in the present proceedings. The appellate court has duly appreciated the material available on record, has rightly affirmed the conviction of the accused under Section 138 of the Negotiable Instruments Act, and has exercised its discretion in



modifying the sentence and compensation in accordance with settled principles of law. The reasons assigned are cogent and do not suffer from non-application of mind so as to call for interference.

8. Accordingly, the present petition, being devoid of merit, is liable to be and is hereby **dismissed**. No order as to costs.

Sd/-
(Ramesh Sinha)
Chief Justice

Abhishek