

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Revision Petition No. 722/2008

Mukesh S/o Shri Ajayab Ram Rawal R/o Ward No.13, Mohar Singh Chowk, Dr. Hairwali Gali, Purani Abadi, Sri Ganganagar

-----Petitioner

Versus

1.State Of Rajasthan  
2. Rajkumar Nagpal S/o Shri Tejbhan Nagpal B/c Arora, R/o Ward No.11, House No.38, Purani Abadi Sri Ganganagar.

-----Respondent

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For Petitioner(s) : Mr. Ritish Bhatnagar

For Respondent(s) : Mr. S.S. Rathore, Dy.G.A.,

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**14/07/2025**

1. The petitioner was prosecuted and convicted by the Court of learned ACJM, Sri Ganganagar in Criminal Case No.407/2005 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and was sentenced to undergo six months' simple imprisonment along with a fine of ₹70,000. The appeal preferred by the petitioner against the said conviction and sentence was dismissed by the learned Additional Sessions Judge No.1, Sri Ganganagar vide order dated 08.04.2008 passed in Criminal Appeal No.28/2008.

2. Briefly stated the facts of the case are that the complainant-respondent No.2 herein, instituted a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881, alleging that the present petitioner had borrowed a sum of ₹60,000/- and, in discharge of the said liability, issued Cheque No. 391853 dated 15.11.2004 for ₹60,000/- in favour of the complainant. Upon presentation of the said cheque for clearance, it was

dishonoured by the bank with the endorsement "insufficient funds" in the petitioner's account. Thereafter, a legal notice was duly served upon the petitioner by counsel for the complainant; however, despite service, the petitioner failed to make payment of the cheque amount.

2.1. Based on the complaint, the learned Trial Court took cognizance of the offence under Section 138 NI Act and proceeded to frame charges against the petitioner, who entered a plea of not guilty and claimed trial. In support of his case, the complainant appeared as PW-1, and upon closure of prosecution evidence, the petitioner's statement under Section 313 CrPC was recorded.

2.2. After hearing final arguments, the learned Trial Court vide judgment dated 04.03.2008 convicted the petitioner for the offence under Section 138 NI Act and sentenced him to undergo six months' simple imprisonment along with imposition of a fine of ₹70,000/-.

2.3. Aggrieved by the said judgment of conviction and sentence dated 04.03.2008, the petitioner preferred a criminal appeal before the learned Additional Sessions Judge No. 1, Sri Ganganagar. However, the appeal came to be dismissed for non-appearance of the petitioner vide order dated 08.04.2008. Being dissatisfied with the concurrent findings of conviction and the summary dismissal of his appeal, the petitioner has approached this Court by way of the present Criminal Revision Petition.

3. I have heard learned counsel for the parties and gone through the record of the case.

4. It is pertinent to observe that the appellate Court dismissed the appeal in a cursory manner by passing non-speaking order comprising merely three lines, recording that neither the appellant nor his counsel was present when the matter was taken up, and consequently, the appeal was dismissed for want of prosecution.

4.1. This Court is of the considered opinion that an appeal challenging conviction and sentence ought not to be dismissed in such a mechanical and summary fashion. Such perfunctory disposal of criminal appeals undermines the principles of appellate adjudication and is accordingly deprecated.

4.2. Be that as it may, learned counsel for the petitioner submits that during the pendency of the proceedings, the parties have arrived at an amicable settlement, pursuant to which a compromise deed has been duly executed and placed on record. Upon perusal of the record, the existence of such compromise stands duly verified.

4.3. In view of the aforesaid development, learned counsel for the petitioner has chosen not to assail the finding of conviction on merits, and confines his submissions to the quantum of sentence, seeking indulgence of this Court for its reduction.

5. Upon hearing the learned counsel for the parties and considering the totality of circumstances, including:  
(i) the voluntary settlement arrived at between the parties,

(ii) the deposit of ₹60,000 by the petitioner, as duly reflected in the order-sheet dated 10.11.2008, and

(iii) the protracted pendency of the matter, this Court is persuaded to take a lenient view in the matter of sentencing.

6. Consequently, the revision petition stands partly allowed. The judgment of conviction rendered by the learned trial court is affirmed to the extent it records the guilt of the petitioner. However, the sentence imposed by the trial court is modified. In lieu of the custodial sentence, the petitioner is directed to pay an additional amount of ₹10,000 to the complainant within a period of 90 days from today. In the event the complainant is not readily traceable, the amount shall be deposited before the learned trial court, which shall ensure its disbursal to the complainant in accordance with law. Further, the order dated 08.04.2008 passed by the learned Additional Sessions Judge No.1, Sri Ganganagar in Criminal Appeal No.28/2008 is quashed and set aside, the same being perfunctory and devoid of judicial reasoning.

7. As the petitioner is already on bail, his bail bonds are hereby discharged. He is not required to surrender.

8. All pending applications stand disposed of. Let the trial court record be returned forthwith.

**(FARJAND ALI),J**