

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

S.B. Criminal Revision Petition No. 402/2019

Lal Chand S/o Sh. Mani Ram, Aged About 43 Years, B/c Fagodia (Jat), R/o Near Tagore Public School Village Pilibanga Tehsil Pilibanga District Hanumangarh (Raj.) (Presently Lodged In District Jail, Hanumangarh)

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. M/s Sohan Lal And Sons Pilibanga, Proprietor Sohan Lal S/o Mehar Chand, B/c Agarwal, R/o Ward No. 15 Pilibanga District Hanumangarh

----Respondents

For Petitioner(s)	:	Mr. RS Gill
For Respondent(s)	:	Mr. SS Rathore, PP Mr. Rameshwar Lal, ASI, PS Pilibanga, Hanumangarh

HON'BLE MR. JUSTICE FARJAND ALI

Order

16/07/2025

1. The instant criminal revision petition has been filed against the judgment of conviction and order of sentence passed by learned trial court whereby the petitioner was convicted for committing an offence under Section 138 of NI Act and he was sentenced to suffer imprisonment of one year along with a fine of Rs.50,000/-. Aggrieved of the finding of guilt and order of sentence, he preferred an appeal, however the same has been dismissed hence the instant petition. After presenting the petition before this Court, he was released on bail by suspending his sentence by Coordinate Bench of this Court. The petitioner was supposed to mark his presence before trial court in the month of

January, but due to some inevitable circumstances, he failed to appear and therefore, bailable warrant was issued and then warrant of arrest got issued because he abstained from appearance. Today, he is brought before this Court after making apprehension by ASI Rameshwar Lal, Police Station Pilibanga, Hanumangarh. He had nobody to provide assistance to furnish surety.

2. Looking to the trivial nature of issue involved, it is felt appropriate to decide the petition on merits.

3. Bereft of the elaborate details, succinctly stated facts of the case as narrated in the order under challenge would be that a criminal prosecution was launched against the petitioner by the complainant respondent M/s Sohan Lal and Sons Pilibanga for the accusation that the petitioner owes a liability towards the complainant and therefore a cheque of Rs.41,000/- was given by him to the complainant. When the cheque was presented in the bank for encashment, it got dishonoured due to insufficiency of amount in the account of petitioner. Notice was given to the petitioner, but since no payment was made, the respondent moved a criminal complaint. Upon taking cognizance of the offence, the petitioner appeared before trial court. The substance of accusation was stated to him and whereafter the trial got commenced. After taking entire material on record, learned trial court convicted him vide judgment dated 07.04.2016. He was sentenced to suffer one year imprisonment and fine of Rs.50,000/-. Though the appeal was preferred, but the same was dismissed vide judgment dated

21.07.2018 by learned Addl. Sessions Judge No.2, Hanumangarh in Cr. Appeal No.09/2016..

4. I have heard learned counsel for the parties. It is observed in the order-sheet dated 10.05.2023 that the respondent No.2 has passed away and no application has been moved by any descendant or legal representative to make the substitute.

5. The petition had already been admitted for making further appreciation of legal and factual aspect of the matter. I have minutely gone through facts of the case and feels that no illegality has been committed by learned trial court and the court of appeal in reaching of the guilt of the petitioner. Ample evidence is there to substantiate the charge. The petitioner had admitted his signature on the cheque in question and supplied the cheque to the respondent. The cheque was presented in the bank within the prescribed period, but it got dishonoured due to insufficiency of amount in the account of accused. During the prescribed period, the notice was issued and received by the petitioner, but no payment was made. During the trial, though the defence was raised by the accused that a part of amount had been paid by him, however no receipt was shown. DW-1 was produced to say about liquidation of the monetary dispute, yet there is no instrument or paper showing resolve of the monetary dispute between the parties.

6. After making a critical appreciation of evidence again, this Court feels that no error has been committed by learned trial court and court of appeal in reaching the finding of guilt of the petitioner and therefore, the conviction deserves to be maintained.

7. The instant petition is dismissed to the extent it challenges the judgment of conviction. As far as the question of sentence is concerned, this Court conferred with the petitioner and observed his gesture and demeanor and feels that his plea of facing serious financial constraints is neither vague nor bald rather has a substance. Presently, he is unemployed and majorly and wholly dependent on the agriculture produce. He has no other source of income. His son is educated but he is also unemployed, therefore could not support him. The original transaction between the petitioner and the complainant relates to the year 2010. Now, 15 years have elapsed. After his conviction and dismissal of appeal and upon presentation of revision petition before this Court, the accused was directed to deposit 50 percent of the cheque amount with the trial court which he paid in due course. It would mean that out of total cheque amount, he has paid 50 percent of the cheque amount and now rest 50 percent original debt is due. He seems to be an indigent as of now and is a member of backward class community and a resident of eastern area of Rajasthan and is a villager. He had to face difficulty for 15 days in facing rigor of trial and also remained in judicial custody for 17 days, thus looking to the over all facts and circumstances of the case and adopting the reformatory approach of sentencing, this Court feels that the sentence undergone by the petitioner would serve the ends of justice.

8. He is obligated to pay the rest 50 percent cheque amount, therefore it is ordered that he would now pay Rs.25,000/- within a period of four months from today. The amount shall be paid with

the trial court. Upon receipt of the amount, learned trial court shall summon the legal representatives of the respondent and after their appearance, the amount shall be distributed between them equally. The petitioner has been produced after arrest. He shall be let free forthwith, if not required in any other case.

9. Accordingly, the revision petition is disposed of by the verdict that the judgment of conviction dated 07.04.2016 passed by Judicial Magistrate, Pilibanga in CR Case No.216/2010 is maintained and the order of sentence is reduced to the period already undergone by him and he shall deposit a sum of Rs.25,000/- as mentioned above.

10. All the pending applications, if any, are disposed of.

11. Record be sent back forthwith.

(FARJAND ALI),J

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