(2001) 03 P&H CK 0085

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 194 of 2001

M/s. Narindera Textile APPELLANT

Vs

Girdhari Lal Bansal RESPONDENT

Date of Decision : 14-03-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2001) 2 CivCC 525 : (2001) 2 RCR(Criminal) 616

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : Mr. D.N. Ganeriwala, for the Appellant; Mr. Sanjiv Gupta, for the Respondent

Judgement

Amar Dutt, J.—This revision petition is directed against the judgment dated 5.2.2001 passed by the learned Additional Sessions Judge, Sirsa by which the appeal filed by the petitioners against the conviction and sentence recorded against them u/s 138 of the Negotiable Instruments Act, 1881 was dismissed.

2. A complaint u/s 138 of the negotiable Instruments Act, 1881 was filed by Girdhari Lal Bansal against M/s Narindra Textiles through its partner Mohan Lal Kukkar on the ground that the firm had purchased cloth worth Rs. 50,030.70 vide Bit! No. 485 dated 30.12.1993 and Bill No. 507 dated 7.1.1994. The Firm had promised to pay the outstanding amount due on demand but when this was not done a demand was raised whereupon the accused issued three cheques bearing Nos. 132663, dated 24.2.1994 for Rs. 13000/-, 132664 dated 18.3.1994 for Rs. 17,000/- and 132665 dated 18.2.1994 for Rs. 20,000/- i.e. for a total sum of Rs. 50,000/- in favour of the complainant towards full and final payment of its account for discharge of the liability. These cheques when presented for payment were returned by the bankers of the accused with the memo that the funds in the account of the accused were insufficient to honour the cheques. The cheques were returned on 15.6.1994 and the demand for payment raised by the

complainant on the accused was not matured and when no payment was made in-spite of demand, the present complaint was filed.

3. On appraisal of the evidence led before the trial court and after hearing the learned counsel for the parties the accused were convicted and sentenced to undergo R.I. for a period of 6 months and to pay a fine of Rs. 30,000/- and in default of payment of fine to further undergo R.I. for a period of three months. In appeal preferred by the petitioner, while maintaining the conviction and substantive sentence of the petitioners, learned Additional Sessions Judge, Sirsa reduced fine from Rs. 30.000/- to Rs. 5,000/- and in default thereof to undergo further SI for a period of two months. Hence this revision.

4. During the pendency of this revision petition, the petitioner tendered an amount of Rs. 50,000/- towards the payment of the amount due to them. This amount was accepted by the complainant and a receipt has been placed on record. The respondent-complainant has also filed an affidavit to this effect. The petitioner has been in jail since 5.2.2001. Learned counsel for the petitioners submitted that the offences under the Negotiable Instruments Act are compoundable, and since the payment has been accepted by the complainant and the dispute having been compromised, the revision petition should be allowed and the petitioner be acquitted. In support of his contentions, learned counsel for the petitioners placed reliance on 2000 ISJ 719, Sahukar Distributors v. R. V. Enterprises, which is based on 1996(1) RCR 389 Naimesh P. Pandya v. State of Gujarat, and 1999 ISJ 417 Raakesh Kumar v. Ajit Steel Industries.

5. I have given my thoughtful consideration to the submissions of the learned counsel for the petitioners and have gone through the authority cited by him, and find that the contention of the learned counsel for the petitioner is not without force. In view of this, the revision petition is allowed. The conviction and sentence recorded against the petitioners is set aside and the petitioners are acquired of the charges framed against them.

6. Revision allowed.

