



CGHC010286292016



2026:CGHC:27802

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 769 of 2016

Rajendra Singh Saggu Kukku S/o Late Sardar Harbhajan Singh, Aged About 57 Years R/o 1395, Sanatan Dharm Mandir Road, Gorakhpur, Thana - Gorakhpur, District Jabalpur Madhya Pradesh.

--- Applicant(s)

versus

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

2 - Smt. Rashmi Bilaiya, W/o Shri B. K. Bilaiya, Aged About 54 Years R/o 60- B, Pahse - 5 - A, Matri Nagar, Bhilai, Thana - Newai, Tah, And District Durg Chhattisgarh, District : Durg, Chhattisgarh

--- Respondent(s)

CRR No. 774 of 2016

Rajendra Singh Saggu Kukku S/o Late Sardar Harbhajan Singh Saggu, Aged About 57 Years R/o 1395, Sanatan Dharm Mandir Road, Gorakhpur, Thana - Gorakhpur, District Jabalpur Madhya Pradesh.

---Applicant(s)

Versus

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

2 - Smt. Rashmi Bilaiya, W/o Shri B. K. Bilaiya, Aged About 54 Years R/o 60- B, Phase - 5 - A, Matri Nagar, Bhilai, Thana - Newai, Tah, And District Durg Chhattisgarh, District : Durg, Chhattisgarh

--- Respondent(s)

CRR No. 773 of 2016

Rajendra Singh Saggi Kukku S/o Late Sardar Harbhajan Singh, Aged About 57 Years R/o 1395, Sanatan Dharm Mandir Road, Gorakhpur, Thana - Gorakhpur, District Jabalpur Madhya Pradesh.

---Applicant(s)

Versus

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

2 - Smt. Rashmi Bilaiya, W/o Shri B. K. Bilaiya, Aged About 54 Years R/o 60- B, Phase - 5 - A, Matri Nagar, Bhilai, Thana - Newai, Tah, And District Durg Chhattisgarh, District : Durg, Chhattisgarh

--- Respondent(s)

For Applicant(s) : Mr. Ashish Shrivastava, Senior Advocate assisted by Mr. Rohishek Verma and Mr. Udit Khatri, Advocates.

For Respondent : Mr. Priyank Rathi, Government Advocate.
No.1/State

For Respondent : Mr. Pragalbha Sharma, Advocate.
No.2

Hon'ble Shri Ramesh Sinha, Chief Justice
Order on Board

06/07/2026

1. Since the above captioned three revision petitions arise out of similar nature of offence between the same applicant and complainant, they are clubbed and heard together and are being disposed of by this common order.
2. These criminal revisions are directed against the judgment dated 14.07.2016 passed by the learned 3rd Additional Sessions Judge, Durg, District – Durg (C.G.) in Criminal Appeal Nos.06/2016, 04/2016 and 05/2016 arising out of judgment dated 07.12.2015 passed by the learned Judicial Magistrate First Class, Durg, District – Durg (C.G.) in Complaint Case Nos.1323/2011, 1630/2011 and 1318/2011, whereby the learned appellate Court has convicted and sentenced the applicant in following manner:

CRR No.769/2016

CONVICTION	SENTENCE
Under Section 138 of Negotiable Instrument Act.	SI for 6 months.
Under Section 357(3) of CrPC.	Compensation of Rs.85,000/-, in default of payment of compensation, 3 months additional S.I.

CRR No.773/2016

CONVICTION	SENTENCE
Under Section 138 of Negotiable Instrument Act.	SI for 6 months.

Under Section 357(3) of CrPC.	Compensation of Rs.85,000/-, in default of payment of compensation, 3 months additional S.I.
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CRR No.774/2016

CONVICTION	SENTENCE
Under Section 138 of Negotiable Instrument Act.	SI for 6 months.
Under Section 357(3) of CrPC.	Compensation of Rs.1,70,000/-, in default of payment of compensation, 3 months additional S.I.

3. Brief facts of the case are that the complainant, Smt. Rashmi Bilaiya, instituted separate complaints against the applicant under Section 138 of the Negotiable Instruments Act alleging dishonour of cheques issued by the applicant. According to the complainant, the applicant had borrowed a sum of Rs.9,00,000/- as loan and, towards part repayment of the said liability, issued the cheques in question. Upon presentation, the cheques were dishonoured by the bank due to insufficiency of funds. Thereafter, statutory demand notices were issued to the applicant, but despite service/refusal of the notices, the applicant failed to make payment within the prescribed period, resulting in the filing of complaints under Section 138 of the Negotiable Instruments Act. During trial, the complainant examined herself and produced the promissory note, the dishonoured cheques and other relevant documents in support of

the complaints. Virendra Bilaiya was also examined as a prosecution witness. In defence, the applicant examined himself and produced deposit slips and other documents in support of his case. The learned trial Court held that the complainant had established the loan transaction and that the signatures on the cheques were admitted. Invoking the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act, the trial Court found that the applicant had failed to rebut the said presumptions by leading cogent evidence. Consequently, the applicant was convicted and sentenced as aforementioned. Aggrieved by the judgments of conviction and sentence, the applicant preferred separate criminal appeals before the Sessions Court. The learned 3rd Additional Sessions Judge, Durg dismissed the appeals and affirmed the judgments of conviction and sentence passed by the trial Court and has further increased the default sentence from two months to three months. Being dissatisfied with the concurrent findings recorded by the Courts below, the applicant has preferred the present criminal revisions.

4. Learned Senior Advocate appearing for the applicant vehemently argued that the applicant had already paid the entire amount for which the cheques were issued and had tried to demonstrate the same from the trial Court record. He further submits that the cheques in question were given as a security money and not towards any debts, hence the trial Court has misread the evidence on record and has convicted the applicant. He lastly submits that the applicant and the husband of the complainant were fast friends

and there appears to be some dispute arose between them as the cheques in dispute which have been issued by the applicant went dishonored and now so many years have been lapsed, the applicant undertakes to pay back the remaining amount within the stipulated period of three months.

5. Thus, the learned Senior Advocate, appearing for the applicant is now confining his argument to the quantum of sentence only. He further submits that the learned appellate Court has sentenced the applicant for six months simple imprisonment, as the applicant surrendered before the trial Court on 04.05.2017 and was released on bail on 17.05.2017, thereby remained in judicial custody for about 13 days and has already deposited 25% of the compensation amount i.e. 85,000/- before the trial Court at the time of granting bail and is also willing to pay the rest of the compensation amount, therefore, the sentence already undergone by him may be suffice to meet the ends of justice. Hence, it is prayed that the sentence awarded to the applicant may be reduced to the period already undergone by him.
6. Per contra, learned counsel appearing for the respondent No.2 vehemently opposed the submission raised on the merits of the case that the applicant had paid the disputed amount for which, the cheques were issued. He further submits that no such payment has been made by him with respect to the disputed cheques, moreover from the documents placed on record by the prosecution goes to show that the cheques were issued towards the loan which were taken by the applicant from the husband of the respondent No.2. He

lastly submits that the complainant has no objection if the applicant will pay the rest of the compensation amount awarded by the trial Court and affirmed by the appellate Court.

7. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
8. Though learned counsel for applicant who failed to pursue the case on merit has lastly submitted that he does not want to challenge conviction of the applicant and confined his prayer only with regard to reduction of sentence as undergone, but still this Court deems it appropriate to examine the impugned judgment of the trial Court as well as the appellate Court. This Court has meticulously perused impugned judgment and evidence on record.
9. Perusal of impugned judgment reveals that the trial Court as well as the appellate Court after elaborately considering evidence of each individual material witness, has observed that the prosecution has proved its case beyond reasonable doubt against the applicant herein. Furthermore the contention of counsel for the applicant that the cheques in question were issued as security cannot be accepted as it is evident from the documents enclosed with the trial Court record that the amounts were paid towards debt and further the cheques which were issued for the disputed amounts, which were dishonored because of the insufficiency of funds, and the applicant has failed to make out any infirmity or perversity in the concurrent finding recorded by the trial Court as well as the

appellate Court and that being the position, this Court is the opinion that the trial Court as well as the appellate Court have not committed any mistake in arriving at a conclusion that applicant is guilty for offence punishable under Section 138 of the Negotiable Instrument Act and Section 357(3) of Cr.P.C.

10. So far as quantum of sentence is concerned, considering the fact the applicant surrendered before the trial Court on 04.05.2017 and was released on bail on 17.05.2017, thereby remained in judicial custody for about 13 days and has already deposited 25% of compensation amount i.e. 85,000/- before the trial Court at the time of granting bail and also shows his willingness to pay the rest of the compensation amount as the applicant and the husband of the complainant were fast friends, therefore, the sentence already undergone by him may suffice to meet the ends of justice, therefore, this Court is of the opinion that ends of justice would be served if the sentence awarded to applicant is reduced to the period already undergone by the applicant.
11. In view of the aforesaid discussion, the conviction of the applicant under Section 138 of the Negotiable Instruments Act, 1881, as recorded by the learned Judicial Magistrate First Class, Durg and affirmed by the learned 3rd Additional Sessions Judge, Durg, is hereby affirmed. However, considering the fact that the applicant has remained in judicial custody for about 13 days, the proceedings have remained pending for a considerable period, the applicant has already deposited 25% of the compensation amount pursuant to the order granting bail, and has expressed his willingness to deposit the

remaining compensation amount, this Court is of the opinion that the ends of justice would be met if the substantive sentence of imprisonment awarded to the applicant is reduced to the period already undergone by him.

12. Consequently, while maintaining the conviction of the applicant under Section 138 of the Negotiable Instruments Act and the direction to pay compensation under Section 357(3) of the Code of Criminal Procedure as affirmed by the appellate Court, the substantive sentence of six months' simple imprisonment is reduced to the period already undergone by the applicant.
13. As agreed by him, the applicant is directed to deposit the compensation amount as awarded by the trial Court and affirmed by the appellate Court, within the period of three months from today before the concerned trial Court. The compensation amount, if any, already deposited by the applicant earlier shall be duly adjusted towards the total compensation payable after verification from the record by the trial Court.
14. In case the applicant fails to deposit the balance compensation amount within the aforesaid period, the learned trial Court shall take appropriate steps in accordance with law for securing the custody of the applicant to undergo the sentence as ordered by the appellate Court, in default of payment of compensation.
15. Upon deposit of the entire compensation amount, the complainant shall be at liberty to move an appropriate application before the

learned trial Court for release of the compensation amount, which shall be considered and decided in accordance with law.

16. Moreover, complaint / respondent No.2, Smt. Rashmi Bilaiya has also preferred Criminal Revision Nos. 875/2016, 876/2016 and 877/2016 seeking enhancement of the compensation awarded by the trial Court and affirmed by the appellate Court. The aforesaid criminal revisions were also listed before this Court today along with the present criminal revisions and, upon hearing the parties, have been dismissed by a separate order passed today.
17. With the aforesaid observation and direction, all these three revision petitions stand **disposed of**.
18. Let a copy of this order and the original records be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Ramesh Sinha)
Chief Justice

Akhil