

# Chuni Lal vs Munshi Ram on 24 January, 2020

**Bench: R. Banumathi, A.S. Bopanna**

1

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 159 OF 2020  
(Arising out of SLP (CRL.) No.3339 of 2019)

CHUNI LAL

VERSUS

MUNSHI RAM & ANR.

O R D E R

R. BANUMATHI, J.:

Leave granted.

(2) This appeal arises out of judgment and order dated 13.08.2018 passed by the High Court of Judicature at Shimla, Himachal Pradesh, in Criminal Revision No.124 of 2017 in and by which the High Court has affirmed the order of the conviction of the appellant under Section 138 of Negotiable Instruments Act and sentence of imprisonment of one year and fine amount of Rs.10,000/- and also compensation of Rs.1,36,000/- and in default thereof the appellant to undergo imprisonment for three months for each of the default.

(3) The case of the first respondent-complainant is that two cheques dated 30.12.2000 and 31.12.2000 were issued by the appellant-accused each for a sum of Rs.50,000/- which was due and payable to the first respondent-complainant. When the said cheques were presented for collection by the first respondent-complainant the same got dishonoured on 13.01.2001 and 15.01.2001 respectively on account of 'insufficiency of funds' Date: 2020.01.30 17:08:44 IST Reason:

in the account of the appellant-accused. After issuing legal notice, the first respondent-complainant filed complaint under Section 138 of the N.I. Act.

(4) All the three courts recorded a concurrent findings that the said cheques were issued by the appellant-accused for the amount due and payable to the respondent-complainant. (5) We have heard Mr. Praveen Agrawal, learned counsel appearing for the appellant and Mr. Aslam, learned counsel appearing for the first respondent and also perused the impugned judgment and the materials on record.

The second respondent-State is represented by Mr. Sarthak Ghonkrokta, learned counsel.

(6) On being preferred the appeal before this Court, the appellant was granted exemption from surrendering by the Hon'ble Judge, In-Chamber, on 14.12.2018. By Order dated 15.04.2019, the appellant-accused was directed to deposit the amount of Rs.1,36,000/- minus the amount already deposited by the appellant. Though the appellant has not initially deposited the amount, after Order of this Court dated 17.01.2020, the appellant has deposited the compensation amount of Rs.1,36,000/- before the court of the Judicial Magistrate Ist Class, Kangra, District Kangra, Himachal Pradesh, on 23.01.2020 and a copy of the said receipt/acknowledgement is also produced for perusal of the Court. Learned counsel for the appellant has submitted that the fine amount of Rs.10,000/-, as directed by the Courts below, has also been deposited before the concerned trial court.

(7) In view of the concurrent findings, we are not inclined to interfere with the conviction of the appellant under Section 138 of the N.I. Act.

(8) However, considering the facts and circumstances of the case and having regard to the fact that the said two cheques were issued by the appellant in the year 2000 and in the interest of justice we deem it appropriate to set aside the sentence of imprisonment imposed upon the appellant while maintaining compensation amount of Rs.1,36,000/- and the fine amount of Rs.10,000/-.

(9) In the result, the impugned judgment is modified and the appeal is partly allowed to the extent indicated below. For the conviction under Section 138 of the N.I. Act, the appellant is imposed upon only compensation amount of Rs.1,36,000/- and fine amount of Rs.10,000/-, however, the sentence of imprisonment imposed upon the appellant is set aside. (10) Accordingly, the compensation amount of Rs.1,36,000/- deposited before the court of the Judicial Magistrate Ist Class, Kangra, District Kangra, Himachal Pradesh, is ordered to be disbursed to the first respondent-complainant. If there is any additional amount which is deposited by the appellant other than the fine amount of Rs.10,000/-, the same shall also be disbursed to the first respondent-complainant.

.....J. (R. BANUMATHI) .....J. (A.S. BOPANNA) NEW DELHI, JANUARY 24, 2020.

ITEM NO.25

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F  
R E C O R D O F P R O C E E D I N G S

I N D I A

Petition(s) for Special Leave to Appeal (Crl.)

No(s). 3339/2019

(Arising out of impugned final judgment and order dated 13-08-2018 in CRLR No. 124/2017 passed by the High Court Of Himachal Pradesh At Shimla) CHUNI LAL Petitioner(s) VERSUS MUNSHI

RAM & ANR. Respondent(s) Date : 24-01-2020 This petition was called on for hearing today.  
CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI HON'BLE MR. JUSTICE A.S. BOPANNA  
For Petitioner(s) Mr. Praveen Agrawal, AOR Ms. Urvashi Marwah, Adv.

Ms. Akrity Chaturvedi, Adv.

Mr. Vijay Pratap Singh, Adv.

For Respondent(s)      Mr.    Aslam, Adv.  
                                 Mr.    Towsif Ahmad Dar, Adv.  
                                 Mr.    Ramjan Khan, Adv.  
                                 Mr.    Yogesh Mathur, Adv.  
                                 Mr.    Satish Kumar, AOR

(R-2)                      Mr. Sarthak Ghonkrokta, Adv.  
                                 Mr. Neeraj Kumar Sharma, AOR

UPON hearing the counsel the Court made the following O R D E R Leave granted.

In terms of the signed non-reportable order, the appeal is partly allowed.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)  
COURT MASTER

(BEENA JOLLY)  
BRANCH OFFICER

(Signed non-reportable order is placed on the file)