

Negotiable Instruments Act, 1881 - [Section 138](#) - Section provides that if any person commits an offence under Section 138 of the Act, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to twice the amount of the cheque or with both - The word used in the said Section is "shall" which indicates that the Court is not having any discretion to exercise power and reduce the fine amount - Only discretion which has been granted under the said Section is that it can impose sentence upto two years or both the sentence as well as fine or it can impose only fine - While imposing sentence, word used is "may" which gives discretion and Court can impose sentence lesser than two years - But there is no discretion to reduce the imposing a fine - No reasons have been assigned for the lesser sentence of fine imposed under Section 138 of the Act when section itself mandates that the sentence will be double the cheque amount. [#2020 SCej 762](#)