

HIGH COURT OF UTTARAKHAND AT NAINITAL

DAILY LOK ADALAT

Criminal Revision No. 132 of 2022

Devedutt Nainwal

.....Revisionist

Versus

State of Uttarakhand and another

.....Respondents

Present:

Mr. Saurabh Kumar Pandey, Advocate, for the revisionist.

Mr. Vikas Uniyal, learned Brief Holder for the State/respondent no.1.

Mr. Pulak Agarwal, Advocate for the respondent no.2.

Daily Lok Adalat Award

Hon'ble Rajesh Tandon, J. (Retd.)

Mahesh Chandra Pant, Member

The present revision has been filed by Shri Devedutt Nainwal against the order passed in Appeal No. 115 of 2019, by which the proceedings under Section 138 of the Negotiable Instruments Act were initiated by Shri Pooran Giri. The appellate Court while passing the order under Section 138 of the Negotiable Instruments Act, convicted the applicant (revisionist herein) Devedutt Nainwal to undergo imprisonment of six months with fine of Rs. 5,00,000/-, while exercising powers under Section 357 sub clause (3) of the Indian Penal Code, a sum of Rs. 4,90,000/- was awarded. The trial court has passed the order that the rest of the amount shall be deposited in the State Exchequer.

2. The applicant/revisionist Devedutt Nainwal has preferred a criminal revision no. 132 of 2022, alleging that in accordance with Section 58 of the Negotiable Instruments Act stated that the instrument was obtained by unlawful means and by unlawful consideration; therefore, the conviction of the applicant is liable to be set aside.

3. During the pendency of the criminal revision an application has been filed for deciding the matter on the basis of settlement between the parties and on that basis the revisionist as well as respondent no.2 filed the application for setting aside the conviction against the applicant and has also prayed for the waiver of the fine in the light of judgment rendered in the case of “ Madhya Pradesh State Legal Services Authority vs. Prateek Jain and another” reported in (2014) SCR 743 as the revisionist was poor person and was unable to arrange such amount of fine.

4. The present revision has been taken for hearing on the basis of the application filed by the revisionist Devedutt Nainwal. Both the parties are present in person and has been duly verified by their respective counsels. Shri Saurabh Kumar Pandey has also filed his Vakalatnama on behalf of the revisionist Devedutt Nainwal which is taken on record. The statements of both the parties have also been annexed with the settlement deed arrived at between the parties.

5. Settlement form is quoted below:-

“हम पक्षकारों के मध्य निम्न राजीनामा होना तय पाया गया :-

1 - कि निगरानीकर्ता / देवीदत्त नैनवाल ने आज दिन तक मूल्य 205000 /- रुपये रेस्पोंडेंट सं 2 पूरन गिरी को अदा कर दिए हैं, तथा 45000 /- का चेक दे दिया है व मूल्य 100000/- रुपये अवर न्यायालय में जमा किया है। इस प्रकार पक्षकारान के मध्य वर्तमान मामले में कुल 350000 /- रुपये कि राशि पर समझौता हो गया है। उक्त 100000/- रुपये जो अवर न्यायालय में जमा है पूरन गिरी आहरित करने को स्वतंत्र है तथा मूल्य 10000 /- रुपये के अर्थदंड कि राशि को खत्म करने व मामले को शमन करने में रेस्पोंडेंट पूरन गिरी को कोई आपत्ति नहीं है।

2 - तदनुसार इस राजीनामे के आधार पर मामले का निस्तारण किया जाना आवश्यक है। ”

6. The settlement application shall form part of the record as well as a copy of the settlement shall be annexed along with the present order.

7. In view of the judgment mentioned above as well as on the basis of the settlement between the parties, the parties have waived a sum of Rs. 10,000/-.

8. Consequently, the order passed by the courts below shall stand set aside.

9. In view of the above, the award is passed accordingly in terms of the settlement.

(Mahesh Chandra Pant, Member)
02.01.2025

(Rajesh Tandon, J (Retd.))
02.01.2025

