

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.184 of 2022

Date of Decision: 24.08.2026

Rakesh Kumar Mahajan

.....Petitioner

Versus

M/s R.K. Dogra and Brothers

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Divya Raj Singh, Advocate.

For the Respondent: Mr. Vivek Singh Thakur, Advocate.

Sandeep Sharma, J. (Oral)

By way of instant petition filed under Section 397 read with Section 401 of Cr.P.C, lays challenge to judgment dated 19.02.2022 passed by the learned Sessions Judge, Kangra at Dharamshala, District Kangra, HP, in Criminal Appeal No.6-K/X/2021, affirming the judgment of conviction and order of sentence dated 10.03.2021, passed by the learned Additional Chief Judicial Magistrate, Kangra, District Kangra, Himachal Pradesh, in Criminal Complaint No.72-II/2009, whereby learned trial Court, while holding the petitioner-accused (hereinafter, '**accused**') guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act, (for short '**Act**') convicted and sentenced him to undergo simple imprisonment for a period of three months and pay fine to the tune of Rs.1,25,000/- to the respondent-complainant (hereinafter, '**complainant**').

2. Precisely, the facts of the case as emerge from the pleadings as well as other material adduced on record are that complainant filed a

complaint under Section 138 of the Act in the competent court of law, alleging therein that accused, with a view to discharge his lawful liability, issued two post-dated cheques i.e. cheque bearing No.182241 dated 09.04.2008 amounting to Rs.40,000/- and cheque bearing No.182242 dated 12.06.2008 amounting to Rs.60,000/-, respectively, in favour of the complainant, however, the same were dishonoured on account of insufficient funds in the bank account of the accused. Since accused failed to make the payment good within the time stipulated in the legal notice, complainant was compelled to initiate proceedings under Section 138 of the Act before the competent Court of law.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 10.03.2021, held the accused guilty of having committed offence punishable under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given hereinabove.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the learned Court below, accused preferred an appeal in the court of the learned Sessions Judge, Kangra at Dharamshala, District Kangra, HP, which also came to be dismissed vide judgment dated 19.02.2022, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, accused has approached this Court in the instant proceedings, seeking therein for his acquittal after setting aside the judgments of conviction recorded by the courts below.

5. Before case at hand could be heard and decided on its own merit, parties have entered into compromise, whereby they have resolved to settle the dispute amicably *inter se* them.

6. Today during proceedings of the case, learned counsel for the accused, on instructions, states that on account of aforesaid amicable settlement arrived *inter se* parties, this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused from the charges framed against him.

7. Pursuant to order passed by this Court, complainant has come present in person and has been duly identified by Mr. Vivek Singh Thakur, Advocate. He states that he, of his own volition and without any external pressure, has entered into compromise with the accused. He states that as per compromise, he has already received sum of Rs.75,000/- from the accused and in case sum of Rs.50,000/- lying deposited with the learned trial Court is ordered to be released in his favour, he shall have no objection in compounding the offence and acquitting the accused from the charges framed against him under Section 138 of the Act. Afore statement of the complainant is taken on record.

8. Since parties have resolved to settle the dispute amicably *inter se* them, as has been taken note hereinabove, coupled with the fact that complainant has no objection in compounding the offence, in the event of its being released the amount lying deposited with the learned trial Court, this Court sees no impediment in accepting the prayer made on behalf of accused for compounding the offence, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex

Court in ***Damodar S. Prabhu V. Sayed Babalal H. (2010) 5 SCC 663***, wherein it has been categorically held that court, while exercising power under Section 147 of the Act, can proceed to compound the offence even after recording of conviction by the courts below.

9. Consequently, in view of the discussion made hereinabove as well as law taken into consideration, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 19.02.2022 and 10.03.2021, passed by the learned Courts below are quashed and set-aside and the accused is acquitted of the charge framed against him under Section 138 of the Act. Interim order, if any, is vacated. Bail bonds, if any, discharged. The petition is disposed of along with pending applications, if any.

10. Sum of Rs.50,000/- deposited by the accused with the learned trial Court is ordered to be released in favour of complainant by remitting the same in its bank account, detail whereof, shall be furnished within a period of one week.

11. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of its own amount, accused is directed to deposit Rs.5,000/- with the HP State Legal Service Authority as compounding fee and Rs.25,000/- as litigation charges payable to the complainant within a period of six weeks, failing which, he shall render himself liable for penal consequences as well as contempt of court.

(Sandeep Sharma)
Judge

August 24, 2026
(sunil)