



CRM-11731-2026 in/and
CRR-1410-2024 (O&M)

-1-

116

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-11731-2026 in/and
CRR-1410-2024 (O&M)
Date of Decision : 25.03.2026**

Vikas Kumar

....Petitioner

VERSUS

Pawan Kumar and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Gaurav Jain, Advocate for the petitioner.

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MANDEEP PANNU J. (Oral)

1. The petitioner has filed the instant revision petition for setting aside the impugned judgment of conviction dated 18.08.2017 and order of sentence dated 21.08.2017, passed by the learned Chief Judicial Magistrate Fatehabad, whereby he has been convicted and sentenced to undergo simple imprisonment for a period of 01 year for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and to pay compensation to the respondent No.2 to the tune of cheque amount i.e. Rs.90,000/- as also the judgment dated 04.07.2026, passed by learned Addl. Sessions Judge, Fatehabad, vide which the appeal of the petitioner against the aforesaid judgment of conviction and order of sentence has been dismissed.

2. The brief facts of the case are that the accused had been having cordial relations with the complainant and he requested to the complainant to lend the money of Rs.1,00,000/- as he is in need of sum of Rs. 1,00,000/- to fulfill his domestic need and the complainant paid a sum of Rs. 1,00,000/- to the accused keeping in view the cordial relations and genuine personal need of the accused and genuine personal need of the accused and it was assured by the accused at that time



**CRM-11731-2026 in/and
CRR-1410-2024 (O&M)**

-2-

that he will repay the said amount to the complainant as soon as possible and the accused was under lawful liability to pay a sum of Rs. 1,00,000/-. The complainant demanded his above-mentioned amount of Rs. 1,00,000/- from the accused and after great efforts of the complainant, the accused agreed to repay the above-said amount of Rs. 1,00,000/- to the complainant. In discharge of the above-said lawful liability, the accused issued a cheque no. 712465 dated 23.03.2016 amounting to Rs. 1,00,000/- of his account no. 30697741758 maintained by him with State Bank of India Branch Mini Secretariat, Fatehabad in the name of the complainant and assured to the complainant that on presentation of cheque, the same will be honoured, but the accused was dishonest right from the beginning and fully knowing that the cheque on presentation cannot be honoured as there was insufficient funds in the account to honour the cheque. The complainant deposited the said cheque no. 712465 dated 23.03.2016 in his account with State Bank of India Branch Mini Secretariat, Fatehabad in order to collect the said amount of Rs. 1,00,000/- of said cheque and State Bank of India Branch Mini Secretariat, Fatehabad returned this cheque as unpaid to the complainant with his memo of dishonour dated 13.04.2016 on the ground that there is insufficient fund in the account of the accused with the remarks 'funds insufficient' and thus said cheque no. 712465 dated 23.03.2016 of accused Vikas Kumar has been dishonoured.

3. It has been further averred that after receipt of the said cheque as unpaid, the complainant served a legal notice to the accused through registered post on 26.04.2016 with acknowledgment due through his counsel Sh. Sunil Kumar Dharnia, Advocate, Fatehabad, to the accused thereby calling upon to him to make the payment of Rs. 1,00,000/- to the complainant within 15 days of the receipt of the notice and the notice has been duly served to the accused, but despite service of legal notice, the accused has not made the payment of the cheque



amount and even did not bother to give reply of the legal notice. The accused has issued the cheque to the complainant knowingly that there is insufficient fund in the account of the accused. Hence, the present complaint.

4. The petitioner was convicted and sentenced to undergo simple imprisonment for a period of 01 year for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and to pay compensation to the respondent No.2 to the tune of cheque amount i.e. Rs.90,000/- by the learned Chief Judicial Magistrate, vide order dated 21.08.2017. Feeling aggrieved, the present petitioner has filed the appeal, which was dismissed by the learned Additional Sessions Judge, Fatehabad, vide order dated 04.07.2024. Hence the present revision petition has been filed.

5. The petitioner has also filed an application i.e. CRM-11731-2026 under Section 147 of the Act read with Section 528 of BNSS/482 Cr.P.C, seeking permission from this Court to compound the offence and to acquit him of the charges under Section 138 of Negotiable Instruments Act.

6. Learned counsel for the petitioner averred that after dismissing of the appeal filed by the petitioner, both the parties compromised the matter and the petitioner paid an amount of Rs.60,000/- as full and final settlement of the dispute. He further submits that the offence under Section 138 of the Negotiable Instruments Act is essentially a civil wrong given the colour of criminal offence and once the dispute has been amicably settled and the complainant has received a substantial amount in full and final settlement, the very foundation of the complaint ceases to exist. Learned counsel for the petitioner prays that both the aforesaid judgments passed by the Courts below be set aside and the petitioner be acquitted of the charge(s) levelled against her.



8. On the asking of the Court, Mr. Sahil Chowdhary, AAG, Punjab accepts notice on behalf of the respondent-State and submits that this is a complaint case and he is not aware of any compromise effected between the parties.

9. No one has put in appearance on behalf of the complainant.

10. Learned counsel for the petitioner relies upon the judgment in the case of '*Tilak Kataria vs. State of Haryana and another*', 2021 (3) RCR (Criminal) 404, wherein, after considering various judgments of the Hon'ble Apex Court, it has been held that when the complainant does not have any objection, the proceedings should come to an end.

11. The Hon'ble Supreme Court in '*A.T. Sivaperumal vs. Mohammed Hyath (D) by Lrs*' 2017 (2) RCR (Criminal) 453, decided on 27.03.2017, has held that once the settlement between the parties has been arrived at, the conviction can also be set aside and the litigation too. Similar view has been taken by a Coordinate Bench of this Court in the case of '*Jagmohan Vs. Sandeep Aggarwal and another*', 2021(4) RCR (Criminal) 86.

12. Learned counsel for the petitioner and learned counsel for respondent No.2, are *ad-idem* that the matter stands compromised and the petition may be allowed and permission may be granted to the parties to compound the offence under Section 138 of the Act in view of the law laid down by the Hon'ble Supreme Court in '*Damodar S. Prabhu vs. Sayed Babalal H*', 2010 (2) RCR (Criminal) 851 and '*Sanjabij Tari versus Kishore S.Borcar*', 2025 INSC 1158, the impugned judgments and order passed by the learned trial Court and the learned Appellate Court may be set aside and the petitioner be acquitted of the charge(s).

13. I have heard learned counsel for the parties and perused the record.



**CRM-11731-2026 in/and
CRR-1410-2024 (O&M)**

-5-

14. In the present case, the cheque(s) amount is Rs.90,000/-. In view of the law laid down in *Sanjabij Tari's case (supra)*, compounding of the present offence can be allowed, provided the petitioner-accused pays 7.5% of the cheque amount by way of costs. On calculation, 7.5% of the cheque amount comes to be Rs.6,750/-. As noticed above, the parties have settled the dispute by way of compromise. CRM-11731-2026 is allowed and this Court grants permission to compound the offence punishable under section 138 of the Act

15. In view of the above, the impugned judgment of conviction dated 18.08.2017 and order of sentence dated 21.08.2017 passed by the learned Chief Judicial Magistrate Fatehabad and the judgment dated 04.07.2024 passed by learned Addl. Sessions Judge, Fatehabad, are set aside. The complaint under Section 138 of the Act stands dismissed and the petitioner stands acquitted of the charge(s), subject to her depositing the costs of Rs.6.750/- with the Punjab State Legal Services Authority, in view of the law laid down by the Hon'ble Supreme Court in *Sanjabij Tari's case (supra)*, within 15 days from the date of receipt of the certified copy of this order.

16. The present revision petition is allowed in the aforementioned terms.

17. Registry is directed to ensure the compliance of this order as to depositing of costs by the petitioner.

18. All pending miscellaneous application(s), if any, stands disposed of.

March 25, 2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No