



2024:0001:1024504

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 14882 of 2026

Satyam Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Manoj Kumar Dubey, Vipul Kumar Dubey

Counsel for Opposite Party(s) : G.A.

Court No. - 74

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant; learned A.G.A. for the State and perused the record.

2. The present 528 B.N.S.S. application has been filed to quash the summoning order dated 09.07.2024 passed by the learned Additional Chief Judicial Magistrate, Court No.7, Allahabad in Complaint Case No. 794 of 2019 (Virendra Kumar Tiwari vs. Satyam Singh), under Section 138 of the Negotiable Instrument Act, Police Station Georgetown, District Allahabad, pending before Additional Chief Judicial Magistrate, Court No.7, Allahabad.

3. It is submitted by learned counsel for applicant that there is money dispute between the parties and opposite party no.2 has filed a complaint under Section 138 of N.I. Act against the applicant. It is further submitted that since there is some dispute regarding payment of money and as such, there is a good chance of amicable settlement of dispute through compromise.

4. Learned counsel for applicant has placed reliance on a judgment of Hon'ble Apex Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H., reported in 2010 (5) SCC 663**. The relevant paragraphs no.17, 18 & 19 are quoted herein below:-

"17. In a recently published commentary, the following observations have been made with regard to the

offence punishable under Section 138 of the Act [Cited from: Arun Mohan, Some thoughts towards law reforms on the topic of Section 138, Negotiable Instruments Act-Tackling an avalanche of cases (New Delhi: Universal Law Publishing Co. Pvt. Ltd., 2009) at p. 5] :

"... Unlike that for other forms of crime, the punishment here (in so far as the complainant is concerned) is not a means of seeking retribution, but is more a means to ensure payment of money. The complainant's interest lies primarily in recovering the money rather than seeing the drawer of the cheque in jail. The threat of jail is only a mode to ensure recovery. As against the accused who is willing to undergo a jail term, there is little available as remedy for the holder of the cheque.

If we were to examine the number of complaints filed which were 'compromised' or 'settled' before the final judgment on one side and the cases which proceeded to judgment and conviction on the other, we will find that the bulk was settled and only a miniscule number continued."

18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect. There is also some support for the apprehensions raised by the learned Attorney General that a majority of cheque bounce cases are indeed being compromised or settled by way of compounding, albeit during the later stages of litigation thereby contributing to undue delay in justice delivery. The problem herein is with the tendency of litigants to belatedly choose compounding as a means to resolve their dispute.

19. As mentioned earlier, the learned Attorney General's submission is that in the absence of statutory guidance, parties are choosing compounding as a method of last resort instead of opting for it as soon as the Magistrates take cognizance of the complaints. One explanation for such behaviour could be that the accused persons are willing to take the chance of progressing through the various stages of litigation and then choose the route of settlement only when no other route remains. While such behaviour may be viewed as rational from the viewpoint of litigants, the hard facts are that the undue delay in opting for compounding contributes to the arrears pending before the courts at various levels. If the accused is willing to settle or compromise by way of compounding of the offence at a later stage of litigation, it is generally indicative of some merit in the complainant's case. In such cases it would be desirable if parties choose compounding during the earlier stages of litigation. If however, the accused has a valid defence such as a mistake, forgery or coercion among other grounds, then the matter can be litigated through the specified forums."

5. The Apex Court has framed guidelines in Sanjabij Tari Vs. Kishore S. Borcar & another in Criminal Appeal No.1755 of 2010 decided on 25.09.2025 and reported in 2025 SCC OnLine SC 2069 and has placed

reliance upon Paras 37 & 38 of the judgement, the same is being reproduced below:-

"37. It is pertinent to mention that this court framed guidelines for compounding offences under the Negotiable Instruments Act, nearly fifteen years back in Damodar S. Prabhu v. Sayed Babalal H. (2010) 5 SCC 663 . The relevant portion of the said judgment is reproduced hereinbelow :

“The guidelines

(i) In the circumstances, it is proposed as follows :

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10 per cent. of the cheque amount to be deposited as a condition for compounding with the legal services authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the sessions court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15 per cent. of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20 per cent. of the cheque amount. ..

We are also conscious of the view that the judicial endorsement of the abovequoted guidelines could be seen as an act of judicial law- making and therefore an intrusion into the legislative domain. It must be kept in mind that section 147 of the Act, does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under section 320 of the Code of Criminal Procedure cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving section 138 of the Act. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the court is spent on the trial of these cases and the parties are not liable to pay any court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. Bona fide litigants should of course contest the proceedings to their logical end. Even in the past, this court has used its power to do complete justice under article 142 of the Constitution to frame guidelines in relation to the subject-matter where there was a legislative vacuum.”

38. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this court is of the view that it is time to “revisit and tweak the guidelines”. Accordingly, the aforesaid guidelines of compounding are modified as under :

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the trial court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the trial court, the magistrate may allow compounding of the offence on payment of additional 5 per cent. of the cheque amount with the legal services authority or such other authority as the court deems fit.

(c) Similarly, if the payment of cheque amount is made before the sessions court or a High Court in revision or appeal, such court may compound the offence on the condition that the accused pays 7.5 per cent. of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this court, the figure would increase to 10 per cent of the cheque amount."

6. As requested by the counsel, it is directed that the accused may appear before the court below within a period of one month from today through the representing counsel and move an application seeking compounding of offence through compromise and deposit 10% of cheque amount. On such application being moved the concerned court may take adequate steps in accordance with law in this regard and shall provide further opportunity to the accused which shall not exceed a maximum period of four months from today to make an endeavour in this direction. Thereafter, the court shall pass necessary orders specifically keeping in view the law laid down by the Apex Court in the case of **Damodar S. Prabhu (supra)** within a period of five months from today.

7. If the applicant does not appear before the trial court for compounding of offence through compromise, then he is required to appear and face the trial and the court shall be at liberty to proceed in accordance with law against the accused and take all necessary steps and measures to procure his attendance as the law permits.

8. In the aforesaid period of five months or till the decision given in the light of the application, whichever is earlier, no coercive measures shall be adopted against the accused.

9. It is further clarified that this order has been passed only with regard to the accused on behalf of whom this application u/s 528 B.N.S.S. has been moved in this Court.

10. With the aforesaid observations this application is **disposed off**.

(Deepak Verma,J.)

May 5, 2026
SKD