

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

CRM-M-22183-2015

Date of decision :11.12.2015

M/S FIANZA HOME SOLUTION AND ANRPETITIONERS

Versus

M/S B.S. HARDWARES

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Vivek Salathia, Advocate for the petitioners.

Mr.Surinder Gandhi, Advocate for the respondent.

AJAY TEWARI, J. (Oral)

This petition was filed against the order declaring the petitioner No.2 as proclaimed person in a criminal complaint bearing No.780 dated 03.10.2012 titled as M/s B.S.Hardwares v. M/s Fianza Home Solution and another, under Section 138 of the Negotiable Instruments Act pending in the Court of JMJC, Gurgaon and for quashing of the said complaint.

On 17.11.2015 the following order was passed:-

“ Learned counsel have agreed that the payment of the cheque amount has been made. Learned counsel for the respondent states that the cheque was of the year 2012 and if the petitioner is ready to pay some more amount towards interest the matter can be settled.

Adjourned to 04.12.2015.

Interim order to continue.”

Today learned counsel for the petitioner has handed over an amount of Rs. 30,000/- in cash to learned counsel for the complainant as interest. Learned counsel for the complainant states that in these circumstances he has no objection if the petition is allowed and the complaint and impugned order are quashed.

The Hon'ble Supreme Court in **Damodar S.Prabhu vs Sayed Babalal H**, Criminal Appeal No.963 of 2010 decided on 03.05.2010 has laid down certain guidelines for compounding the offence under Section 138 of the Negotiable Instruments Act, one of them is that the compounding before Sessions Court or High Court would be allowed only on the condition if the accused deposits 15% of the cheque amount by way of costs. However, in the present case the petitioner has already paid the cheque amount and now he has also paid an amount of Rs. 30,000/- towards interest today in the Court itself which has been accepted by learned counsel for the complainant, therefore, following the decision of the Hon'ble Supreme Court in **Gian Singh v. State of Punjab and another** reported as 2012(4) RCR(Criminal) 543, I am of the considered opinion that continuation of criminal proceedings between the parties would be an abuse of the process of law.

Resultantly the petition is allowed and the order dated 17.10.2013 declaring the petitioner as a proclaimed offender in complaint bearing No.780 dated 03.10.2012 titled as M/s B.S.Hardwares v. M/s Fianza Home Solution and another, under Section 138 of the Negotiable Instruments Act pending in the Court of JMJC, Gurgaon as also the complaint are quashed qua the petitioners.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)

JUDGE

December 11, 2015

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