

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

CRM-M-28206 of 2014
Date of decision : 26.02.2015

M/s Classic Printers and anr.

...Petitioners

Versus

Niranjan Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Bikram Chaudhary, Advocate
for the petitioners.

Mr. Gorav Kathuria, Advocate
for the respondent.

JITENDRA CHAUHAN, J. (Oral)

1. This petition under Section 482 of the Code of Criminal Procedure has been filed against the order dated 30.05.2014, passed by the Additional Sessions Judge, Faridabad in Crl. Appeal No.112/18.05.2013 vide which miscellaneous application filed by the petitioner under Section 147 of the Negotiable Instruments Act, 1881 for compounding the offence and for depositing the cheque amount along with the cost was dismissed.

2. Learned counsel for the petitioner tendered two demand drafts with a request that the matter may be compounded as the petitioner has offered to pay Rs.1,00,000/- besides the compounding

fee in terms of the guidelines framed in *Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663*. However, the proposal is not acceptable to the complainant.

3. On the other hand, the learned counsel for the respondent states that the proposal put forth by the petitioner for compounding the offence is not acceptable to him.

4. This Court has considered the rival contentions of learned counsel for the parties.

5. The Hon'ble Supreme Court with a view to reduce the litigation in the cheque bouncing cases while exercising its powers under Article 142 of the Constitution of India framed guidelines to do complete justice to the parties. A bare perusal of the guidelines shows that an option has been given to the accused to make an application for compounding the offence under Section 138 of the Act and the compounding can be allowed subject to the condition that the accused will be required to pay the requisite compounding fee. Section 147 of the Act makes every offence punishable under this Act compoundable. No consent of the complainant is necessary for compounding the offence. The learned Additional Sessions Judge has failed to exercise its discretion to compound the offence judiciously. In view of the offer made, and the amount involved i.e. Rs.65,000/- the impugned order dated 30.05.2014 is liable to be set aside as per the guidelines in

Damodar S. Prabhu's case (supra) in the interest of justice.

6. In this view, the impugned order dated 30.05.2014 is set aside and the matter is disposed of with a direction to the learned trial court to reconsider the matter, keeping in view the offer made by the petitioner, at the time of passing the final order.

Disposed of.

26.02.2015

ashok

(JITENDRA CHAUHAN)
JUDGE