

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-41798-2014

Date of decision : 29.01.2015

Smt.Harcharan Kaur

... Petitioner

Versus

Rahul Dairy

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Sandeep Verma, Advocate
for the petitioner.

Mr.Saurabh Arora, Advocate
for the respondent.

REKHA MITTAL, J.(ORAL)

The petitioner has prayed for setting aside order dated 13.06.2011 passed by the Judicial Magistrate Ist Class, Ambala, whereby the petitioner has been declared as a proclaimed offender in complaint case No.1755 of 10.09.2008 titled "Rahul Dairy Vs. Smt.Harcharan Kaur" under Section 138 of the Negotiable Instruments Act 1881 (in short 'the Act').

In the instant case, the complaint was filed by respondent No.2-complainant Charanjeet Singh, proprietor of Rahul Dairy. Now the matter has been amicably settled between the parties.

Charanjeet Singh complainant-respondent No.2 in person is present in Court. Affidavit of Charanjeet Singh filed in the Court is taken on record. His statement was recorded in the Court and an extract therefrom is quoted thus:-

"Complaint No.1755 of 10.09.2008 titled 'Rahul Dairy v. Smt.Harcharan Kaur' under Section 138 of the Negotiable Instruments Act, 1881 was instituted by me

being Proprietor of Rahul Dairy. Now, dispute between the parties has been resolved by way of compromise arrived at between the parties and in terms of compromise, I have already received an amount of Rs.90,000.00 in cash today in the Court. I have filed my affidavit in Court today which may be read as part of my statement. In view of compromise, I have got no objection if the aforesaid complaint and proceedings emanating therefrom are ordered to be quashed against the petitioner.”

Counsel for the petitioner submits that offence under Section 138 of the Act is compoundable as envisaged under Section 147 of the Act. It is further submitted that as entire dispute between the parties, subject matter of the aforesaid complaint has been settled by way of compromise, the impugned order as well as the entire criminal proceedings initiated vide complaint No.1755 of 10.09.2008 titled “Rahul Dairy Vs. Smt.Harcharan Kaur” may be quashed.

Counsel for the respondent has got no objection in view of claim of the complainant having been satisfied in its entirety.

In view of the above, the petition is allowed, criminal complaint case No.1755 of 10.09.2008 titled “Rahul Dairy Vs. Smt.Harcharan Kaur” under Section 138 of the Negotiable Instruments Act and proceedings emanating therefrom including the impugned order dated 13.06.2011 are hereby quashed. The factum of quashing of criminal complaint be notified to the Judicial Magistrate concerned so that the order of proclaimed offender or proceedings pending before the Court do not adversely affect the petitioner.

(REKHA MITTAL)
JUDGE

January 29, 2015.