

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

CRM No. 13234-13235 in/&
CRR No. 1088 of 2015(O&M)

Date of decision: 29.04.2015

Koushalaya

-----Petitioner (s)

V/s

State of Punjab and another

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. H.K. Brinda, Advocate for the petitioner.

HARI PAL VERMA, J.(Oral)

CRM No. 13234 of 2015

This is an application for placing on record the copy of affidavit dated 06.04.2015 (Annexure P/1).

Application is allowed as prayed for. Copy of affidavit dated 06.04.2015 (Annexure P/1) is taken on record.

CRM No. 13235 of 2015

This is an application for pre-poning the date of hearing of the main case.

For the reasons mentioned in the application, the application is allowed and the main case is pre-poned and taken up for today i.e. 29.04.2015.

CRR No. 1088 of 2015(O&M)

Notice of motion.

At this stage, Mr. Manoj Kumar Pundhir, Advocate, has put in appearance on behalf of complainant-respondent No.2.

Through the instant revision petition, the petitioner has challenged the judgment and order of conviction dated 11.06.2014 passed by Ld. Judicial Magistrate, 1st Class, Ropar, whereby, the petitioner was convicted and sentenced as under:-

<i>Under Section 138 of NI Act</i>	To undergo RI for the period of one year and to pay fine of Rs. 2,000/-(Rupees two thousand) and in default payment of fine, to undergo SI for one month
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Against the judgment and order of conviction and sentence dated 11.06.2014, the petitioner filed an appeal and appeal met the similar fate and was accordingly dismissed.

It is during the pendency of the present revision petition, the parties have entered into a compromise and in support of said compromise, learned counsel for respondent No.2 i.e. the complainant, namely, Mukesh Kumar son of Jagdish Arora, has filed an affidavit which reads as under:-

“I, Mukesh Kumar, aged about 35 years son of Jagdish Arora, resident of H.No. 2446, Mohala Phool Chakkar Rupnagar Tehsil and Distt. Rupnagar do hereby solemnly affirm and declare as under:-

1. That the deponent has filed the complaint u/s 138 of N.I. Act against Kaushalaya wife of Balbir Singh Class IV Civil Hospital Rupnagar before the Id. court of JMIC Rupnagar and the Id. JMIC Rupnagar has convicted Kaushalaya Devi for one year and

imposed fine of Rs. 2,000/- and the appeal filed by Kaushalaya Devi was also dismissed by the Id. court of Sessions Judge, Rupnagar on 5.2.2015 and now she is confined in District Jail Rupnagar.

2. That now the matter in dispute has been settled between the deponent and accused Kaushalaya Devi.

3. That the above said Kaushalaya Devi has returned the cheque amount to the deponent and now there is no dispute with Kaushalaya Devi with the deponent regarding the cheque in question.

4. That now both the parties have no ill will/grudge against each other.

5. That both the parties undertake not to raise any dispute against each other in future."

Complainant, namely, Mukesh Kumar is also present in person and is identified by his counsel.

Learned counsel for respondent No.2, on instructions from respondent No.2, does not dispute the factum of compromise and submitted that he has no objection if the petitioner is acquitted of the charges.

Learned counsel for the petitioner submits that during the pendency of the present revision petition, the matter has been compromised. Accordingly, the petitioner and the complainant should be allowed to compound an offence under Section 138 of Negotiable Instruments Act(for short " the Act"). Furthermore, the petitioner has returned the cheque amount to the complainant and now there is no dispute between the parties regarding the cheque amount.

In view of the above, it is clear that during the pendency of the present revision petition, the matter has been compromised between the parties. For ready reference, Section 147 of the Act reads as under:-

*"Offence to be compoundable-
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."*

Reliance has been placed on the judgment passed by this Court in the case of **Ritesh Gupta Vs. State of Punjab and another 2009(3) R.C.R.(Criminal) 61**, whereby, the Court has relied upon the judgment of Apex Court in the case of **O.P. Dholakia Vs. State of Haryana and another, (2000) 1 SCC 762**, the Apex Court was pleased to allow the accused and the complainant to compound an offence under Section 138 of the Act, despite conviction and sentence having been held by three Forums. In view of the compromise, the conviction and sentence under Section 138 of the Act was annulled.

Learned counsel for the petitioner while relying upon the judgment passed by this Court in **Crl. Misc. No. M-12795 of 2014, titled as "Gurmeet Singh Vs. State of Punjab and another"**, decided on 11.08.2014, has further stated that as the petitioner has already made the payment and the complainant has accepted the amount of cheque-in-dispute, the order of conviction and sentence be set aside.

Reliance has also been placed of the judgment of this Court in the case of **Gurvinder Singh Vs. State of Punjab and others 2011(5) R.C.R. (Criminal)**, wherein, the compromise was arrived at between the parties during the pendency of the revision petition and complainant has submitted an affidavit that the matter-in-dispute has been settled between the parties, accordingly, this Court has allowed the revision petition and acquitted the petitioner of the charges framed against her under Section 138 of the Act.

Accordingly, the judgment and order of conviction and sentence of the petitioner dated 11.06.2014 passed by Ld. Judicial Magistrate, 1st Class, Ropar, as well as the judgment of Lower Appellate Court dated 05.03.2015 passed by Ld. Sessions Judge, are liable to be set aside.

In view of the fact that the complainant has submitted an affidavit and does not wish to continue the proceedings any more, the present revision petition is allowed. Consequently, the judgment and order of conviction and sentence of the petitioner dated 11.06.2014 passed by Ld. Judicial Magistrate, 1st Class, Ropar, as well as the judgment of Lower Appellate Court dated 05.03.2015 passed by Ld. Sessions Judge, are set aside and the petitioner, namely, Koushalaya, is acquitted of the charges framed against her.

April 29, 2015
Anjal

(HARI PAL VERMA)
JUDGE