

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-118-2015 (O&M)
Date of decision: 20.07.2015

Rajpal Singh @ Raju

... Petitioner

Vs.

Joginder Singh and anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Cheema, Advocate
for the petitioner.

Mr. H.S. Jalal, Advocate
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Present criminal revision petition is directed against the impugned judgment dated 11.09.2014, passed by learned Additional Sessions Judgw (FTC), Bathinda, whereby impugned judgment of conviction and order of sentence of even date i.e. 14.05.2013, passed by learned Judicial Magistrate 1st Class, Bathinda, were upheld.

Learned counsel for the parties are ad idem that after passing of the impugned judgment dated 11.09.2014 by learned Additional Sessions Judge, Bathinda, parties arrived at an amicable settlement by way of compromise dated 06.12.2014 (Annexure P-1). As a consequence of the compromise, petitioner paid and respondent-complainant accepted the agreed

amount by way of receipt (Annexure P-2). Relying upon a Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (CrI.) 102**, learned counsel for the petitioner submits that the present petition deserves to be allowed, by setting aside the impugned judgments and order of sentence.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to contentions raised, this Court is of the considered opinion that in view of the peculiar fact situation of the present case, instant revision petition deserves to be allowed, for the following more than one reasons.

Offence under Section 138 of the Negotiable Instruments Act ('N.I. Act' for short) for which the petitioner has been convicted and sentenced, is compoundable. In view of the nature of offence under Section 138 of N.I. Act, it is compoundable at every stage of litigation, even after conviction by the learned trial Court. In the present case, parties have arrived at an amicable settlement by way of compromise dated 06.12.2014 (Annexure P-1) and pursuant thereto, respondent-complainant has accepted the agreed amount vide receipt (Annexure P-2). Once the parties have decided to bury the hatchet, no useful purpose will be served by keeping the criminal litigation pending and the petitioner deserves acquittal of the charges framed against him.

The abovesaid view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court: -

1. *Deva Ram Vs. State of Rajasthan and another, 2014 (13) SCC 275*

2. *Khaja Nayeemuddein Vs. State of Andhra Pradesh*, 2000 (4) Crimes 117
3. *Jasbir Singh Vs. State of Punjab*, 2000 (3) RCR (Crl.) 220
4. *Ram Nath and others Vs. State of Haryana*, 2009 (5) RCR (Crl.) 553
5. *Darshan Singh and others Vs. State of Punjab and another*, 2001 (2) AICLR 375
6. *Roshan Vs. Smt. Jai Janti*, 2000 (4) RCR (Crl.) 216,
7. *Chet Singh Vs. State of Punjab*, 2011 (6) RCR (Crl.) 1254
8. *Kulwinder Singh and others Vs. State of Punjab and another*, 2007 (3) RCR (Crl.) 1052.

In **Deva Ram's case** (supra), the Hon'ble Supreme Court, in paras 4, 6 and 7 of the judgment, observed as under: -

“An application has been filed in this Court by the appellant praying that in view of the settlement, offence may be permitted to be compounded. It is stated that the original complainant and the appellant are close relatives. It is stated that the original complainant expired on 30/05/1994. Thereafter, the son of the complainant is not keen on prosecuting the proceedings. The appellant is a senior citizen who suffers from various ailments. It is further stated that due to intervention of the elders of the village, dispute between the parties is resolved. The appellant has agreed to pay settlement amount to Arjun Ram. It is further stated in the application that the appellant has paid the fine amount. An affidavit has also been filed by Jagdish Prasad, Power of Attorney holder of the appellant confirming that the matter is settled.

We must note that copy of Deed of Compromise dated 25/2/2014 is also filed in the court. Learned counsel for the parties have confirmed that the matter is settled.

We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence. Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge.”

Similarly, the Hon'ble Supreme Court in paras 3 and 4 of its judgment in **Khaja Nayeemuddein's case** (supra), held as under: -

“During the pendency of the Special Leave Petition, appellant had come to terms with the victim of the accident (PW.2) and thereupon a petition has been filed for permission of the Court to compound the offence. We issued notice to PW.2 Mohd. Ezaz. Today, Mr. Abhijit Sen Gupta entered appearance for him and submitted that as a matter of fact the appellant and PS.2 have come to terms regarding the offence and so permission is sought for compounding it.

Section 336 of the Indian Penal Code is a compoundable

offence with the permission of the Court as can be seen from the second table given to Section 320 of the Code of Criminal Procedure. Considering the fact that the appellant is an employee attached to Andhra Pradesh Road Transport Corporation and the consequences of the conviction will be detrimental to his career, we persuade ourselves to accord permission for compounding the offence. In the result, we set aside the conviction and sentence passed on him and acquit him under Section 320 (8) of the Code of Criminal Procedure.”

The above-said view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court of India in **Narinder Singh and others Vs. State of Punjab and another, 2014 (6) SCC 455** as well as a Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (CrI.) 102**.

The material fact regarding compromise (Annexure P-1) has been duly verified by learned counsel for respondent No.1-complainant, who stated that the complainant had received the total agreed amount from the petitioner, and nothing remains outstanding against the petitioner, in this regard. He further submits that he has the instructions to say that the complainant has no objection in case the impugned judgments of conviction and order of sentence are set aside, by allowing the present revision petition.

Since the parties have arrived at an amicable settlement, though after conviction, present petition deserves to be accepted. It is so said because in view of the judgment of the Hon'ble Supreme Court in Deva Ram's case (supra), offence under Section 420 IPC was held compoundable but with the

permission of the Court, even after conviction.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition deserves to be allowed. Consequently, impugned judgment of conviction and order of sentence of even date 14.05.2013 passed by learned Judicial Magistrate 1st Class, Bathinda and also the impugned judgment dated 11.09.2014 passed by learned Additional Sessions Judge, Bathinda, are hereby set aside. Petitioner is acquitted of the charges framed against him. His bail bonds/surety bonds shall stand discharged.

With the abovesaid observations made and directions issued, instant criminal revision petition stands allowed, however, with no orders as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

20.07.2015
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