

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

**CRR No.1239 of 2015 (O&M)
Date of Decision: 30.07.2015**

Surinder Singh Chauhan

.....Petitioner

Versus

Baljit Singh

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Harkaran Singh, Advocate
for the respondent-complainant.

ANITA CHAUDHRY, J. (Oral)

The present revision petition has been filed by the petitioner against the order dated 24.03.2015, passed by the learned Addl. Sessions Judge, Moga, vide which, impugned judgment of conviction and order of sentence dated 28.02.2014 convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo R.I. for a period of one year and to pay a fine of Rs.1000/-, passed by learned Judicial Magistrate Ist Class, Moga has been upheld.

Learned counsel for the petitioner contends that parties have compromised the matter and in this regard affidavit of complainant Baljit Singh has already been filed. He states that the entire amount stands repaid to the complainant and the petitioner has also deposited 10% of the cheque amount with the Punjab & Haryana High Court Legal Services Authority, at Chandigarh, in compliance of order dated 07.05.2015, passed by this Court.

On the other hand, the learned counsel appearing for the respondent-complainant admits the factum of receipt of the entire payment. The counsel for respondent has no objection if the impugned judgments of conviction and sentence are set aside.

I have heard learned counsel for the parties and perused the record.

In **Damodar S.Prabhu vs. Sayed Babalal, JT 2010 (4) SC 457**, the Full Bench of Hon'ble Supreme Court has issued the following guidelines in cheque bouncing cases:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at

the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

In view of the judgment of the Apex Court in **Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (2) RCR (Cri.) 851**, the matter can be compounded at the stage of pendency of the proceedings before the High Court.

Considering the above circumstances, the offence under Section 138 of the Negotiable Instruments Act is compounded.

Keeping in view the fact that the matter has been finally settled, the liability is discharged; the present petition is allowed; judgment of conviction and order of sentence dated 28.02.2014 passed in complaint case No.RT-103 of 18.08.2012, by the Judicial Magistrate Ist Class, Moga; and judgment dated 24.03.2015, passed in Criminal Appeal No.49 of 21.03.2014, by the Additional Sessions Judge, Moga, confirming the conviction and sentence of the accused-petitioner, are set aside. The present revision is allowed and the petitioner is acquitted on the basis of compromise.

As the main revision is being disposed of, the pending criminal miscellaneous applications are also disposed of.

(Anita Chaudhry)
Judge

30.07.2015
Sunil Sehgal