

CRR-1771-2015

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

**CRR-1771-2015 (O & M)
Date of Decision: 15.07.2015**

Teka

... Petitioner(s)

Versus

State Bank of Patiala

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Virender Singh Punia, Advocate,
for the petitioner.

None for the respondent.

Paramjeet Singh, J. (Oral)

CRM-16096-2015

Having heard learned counsel for the petitioner and in view of grounds mentioned in application, delay of 4 days in filing the revision is condoned.

Application stands allowed.

CRR-1771-2015

Present criminal revision has been preferred by the petitioner against judgment dated 07.02.2015 passed by learned Additional Sessions Judge, Hisar thereby dismissing the appeal filed by the petitioner against the judgment of conviction dated 16.12.2013 and

CRR-1771-2015

order of sentence dated 23.12.2013 passed by the Judicial Magistrate Ist Class, Hisar vide which petitioner has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, sentenced to undergo rigorous imprisonment for a period of one year and has been ordered to pay a sum of ₹3,80,000/- as compensation to the complainant, in default of payment of compensation, the petitioner shall undergo simple imprisonment for a period of four months.

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

None has appeared on behalf of the respondent despite service.

Today, learned counsel for the petitioner states that matter has been compromised with the respondent. He has produced affidavit dated 13.7.2015 of Sh. Mukesh Kumar Gupta, Branch Manager/Principal Officer, State Bank of Patiala, Branch Uklana, District Hisar which is taken on record. It is specifically mentioned in affidavit that petitioner-Teka has deposited entire amount under OTS Scheme in full and final settlement and nothing is due towards the petitioner qua the aforesaid loan amount. It is also mentioned that bank has no objection, if the petitioner is released on bail or acquitted in this case.

Learned counsel for the petitioner states that the petitioner is ready to deposit ₹57,000/- (i.e. 15% of the cheque amount involved in this petition), being compounding charges, in favour of the State Legal

CRR-1771-2015

Services Authority, Haryana in terms of the judgment of the Hon'ble Supreme Court in ***Damodar S. Prabhu versus Sayed Bablal H.*** 2010(2) R.C.R. (Criminal) 851.

The Hon'ble Apex Court in the matter of ***Damodar S. Prabhu (supra)*** has held as under:-

“15. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

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

CRR-1771-2015

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. Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority."

Consequently, in view of the affidavit of Mr. Mukesh Kumar Gupta, Branch Manager, State Bank of Patiala, Uklana according to which the bank-respondent has received amount in full and final settlement and keeping in view the law laid down by the Hon'ble Apex

CRR-1771-2015

Court in the matter of ***Damodar S. Prabhu (supra)***, instant revision is allowed; impugned judgments and order of sentence are set aside and criminal complaint filed by respondent-complainant is quashed, subject to deposit of an amount of ₹57,000/- i.e. 15% of the cheque amount, by the petitioner, being compounding charges, within one month with the State Legal Services Authority, Haryana failing which the petitioner will serve the imprisonment as awarded by the courts below. It is made clear that the petitioner shall be released, if not required in any other case, on deposit of aforesaid amount ₹57,000/-, as directed aforesaid.

Disposed of in the aforementioned terms.

15.07.2015
parveen kumar

(Paramjeet Singh)
Judge