IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRR-1819 of 2015 (O&M)
DATE OF DECISION: May 18, 2015.

Mahinder Kaur

....Petitioner.

VERSUS

M/s Ashu Finance through its Partner Sh. Sanjay Kumar

....Respondent.

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CORAM : HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sudhir Kumar, Advocate for the petitioner.

Mr. Virender Dhull, Advocate for the respondent.

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HARI PAL VERMA, J. (Oral)

Petitioner Mahinder Kaur has filed the present revision petition challenging the judgment dated 07.05.2015 passed by learned Additional Sessions Judge, Chandigarh, dismissing her appeal filed against judgment dated 20.09.2014 passed by Judicial Magistrate Ist Class, Chandigarh, whereby the petitioner was convicted and sentenced to undergo imprisonment for a period of one month with fine of Rs.5,000/- under Section 138 of the Negotiable Instruments Act (in short, "N.I. Act") and out of this fine Rs.3,000/- was required to be paid towards compensation.

Learned counsel for the petitioner instead of addressing arguments on merits, has submitted that the parties have entered into the compromise. Accordingly, notice of motion was issued to the respondent/

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complainant and Mr. Virender Dhull, Advocate has put in appearance on behalf of the respondent.

Learned counsel for the parties submitted that the parties are present in person. Their respective counsel have identified them. Learned counsel for the petitioner prayed for compounding of the offence under Section 147 of the N.I. Act by treating the revision petition as petition under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") and quashing of the complaint filed by the respondent on the basis of compromise. He has drawn attention of the Court to the affidavit dated 12.05.2015 filed by Sanjay Kumar son of Devi Dayal, resident of Pipli Wala Town, Manimajra, Chandigarh, who is the complainant in the case.

The offence could be compounded and the proceedings could be quashed at this stage of the case, finds support from the judgment of Apex Court in ***K. Subramanian vs. R. Rajathi Rep. by P.O.A. P. Kalippan, 2010(1) R.C.R. (Criminal) 184*** to contend that conviction of the accused in a case of dishonour of cheque could be set aside by permitting the parties to enter into the compromise to compound the offence. Further reliance has also been made in ***K.M. Ibrahim vs. K.P. Mohammed & Anr., 2010(1) R.C.R. (Criminal) 595*** wherein compounding was held permissible even at the appellate stage. It has also been held that once compounding of offence under the provisions of Section 147 of the N.I. Act is permitted, the conviction for an offence under Section 138 of the N.I. Act should also be set aside. The submission of learned counsel for the petitioner also finds support from another judgment i.e. ***Vinay Devanna Nayak vs. Ryot Seva Sahakari Bank Ltd., 2008(1) R.C.R. (Criminal) 249.*** In this case the dispute relates to dishonour the cheque and the parties having compromised

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the matter before the Apex Court, it was held by the Supreme Court of India that offence is compoundable even at the appellate stage under Section 147 of the N.I. Act.

In view of the aforesaid facts and the judgment referred therein the present revision petition is converted as a petition under Section 482 Cr.P.C. Accordingly the complaint filed by the respondent against the petitioner under Section 138 of the N.I. Act is quashed. Consequently, the impugned judgments dated 23.09.2014 and 07.05.2015 passed by the learned Judicial Magistrate Ist Class Chandigarh and Additional Sessions Judge, Chandigarh, respectively are set aside and the petitioner is acquitted of the charges. The petitioner is directed to be released forthwith if she is not required in any other case.

With the above observations, the present petition is disposed of.

(HARI PAL VERMA)
JUDGE

May 18, 2015
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