

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

**Crl. Revision No. 1862 of 2015,
Crl. Revision No. 1863 of 2015,
Crl. Revision No. 1864 of 2015,
Crl. Revision No. 1865 of 2015,
Crl. Revision No. 1866 of 2015 &
Crl. Revision No. 1867 of 2015
Date of Decision: 28.09.2015**

Jagdish Kumar

.. Petitioner

Vs.

Subash Kumar & Anr.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr.S.D. Bansal, Advocate
for the petitioner.**

Mr. K.S. Aulakh, AAG Punjab.

None for respondent No.1.

ANITA CHAUDHRY, J.

The petitioner, in order to discharge his outstanding liability, issued three cheques in favour of respondent No.1, out of which one was for Rs.5 lacs and remaining two were for Rs.3 lacs each. The cheques were dishonoured, leading to filing of three separate complaints against him under Section 138 of Negotiable Instruments Act, 1881(for brevity, the Act).

On conclusion of trial, the learned Magistrate vide judgment dated 28.02.2013 held him guilty under Section 138 of the Act and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/- in each case. In default

of payment of fine, he was required to undergo rigorous imprisonment for one month.

Dis-satisfied with the same, petitioner preferred three separate appeals and the complainant also filed three revisions seeking enhancement of sentence and compensation.

During pendency of matter before the Appellate Court below, the parties entered into a compromise and the petitioner-accused agreed to pay Rs.15,00,000/- in three installments against the cheque amount. The petitioner undertook that in case he failed to pay the agreed amount, his appeals be deemed to be dismissed and revisions filed by the complainant may be restored. The compromise was not adhered to by the petitioner. Resultantly, his appeals were dismissed and revisions of the complainant were partly allowed. In the complaint concerning cheque of Rs.5 lacs, the Court below awarded compensation of Rs.2 lacs, while in respect of two cheques of Rs.3 lacs each, the petitioner was directed to pay a compensation of Rs.1 lac in each case to the complainant. In default of payment of fine, the accused was required to undergo further rigorous imprisonment for four months.

Aggrieved by the dismissal of appeals and imposition of compensation, the petitioner has filed six separate revision petitions, which are taken up for hearing together.

On 21.05.2015 when the matter came up for hearing, it was brought to the notice of the Court that the matter had been settled and the petitioner had paid the entire due amount to

the complainant. Respondent-complainant himself had appeared before the Court and had filed the affidavit mentioning therein about receipt of full and final payment from the petitioner. The petitioner was directed to deposit 10% of the cheque amounts in view of **Damodar S. Prabhu Vs. Sayed Babalal H., AIR 2010 (SC) 1907.**

On 28.07.2015 it was pointed out that the petitioner had deposited 10% of the cheque amounts. The parties were directed to appear before the Chief Judicial Magistrate, Sangrur to make statements in support of the compromise.

Report along with statements of parties had been received from the CJM concerned. It was mentioned in the report that the petitioner had paid the entire amount to the complainant.

In view of the judgment of the Apex Court in Damodar S. Prabhu(supra), the matter can be compounded at the stage of pendency of the proceedings before the High Court. Considering the above circumstances, the offence under the Act is compounded.

Keeping in view the fact that the matter has been finally settled, the liability is discharged; the present petitions are allowed; judgment of conviction and order of sentence passed by the Courts below are set aside and the petitioner is acquitted of the charges.

September 28, 2015
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(ANITA CHAUDHRY)
JUDGE