

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

CRM-M No. 2582 of 2015 (O&M)

Date of Decision: 24.09.2015

Dharam Pal Yadav

..... Petitioner

Vs.

State of Haryana and Another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

Mr. Satish Saini, DAG, Haryana
for respondent No. 1/State.

Ms. Sakshi, Advocate
for respondent No. 2/complainant.

JASWANT SINGH, J. (ORAL)

The petitioner has been convicted vide judgment dated 15.01.2013, passed by learned Special Judicial Magistrate, Kurukshetra, for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months' for rigorous imprisonment with further award of compensation for a sum of Rs. 1,70,000/-.

The appeal filed by the petitioner was dismissed vide judgment dated 07.07.2015, passed by learned Additional Sessions Judge, Kurukshetra.

It was proved that the petitioner had issued a cheque of Rs. 1,30,000/- towards discharge of a previous debt liability. Hence, the present revision alongwith an application under Section 147 of the Negotiable

Instruments Act, 1881, has been filed for setting aside the orders, passed by both the Courts below, on the basis of a settlement arrived at with the complainant/respondent No. 2. To support the submission of compromise, the affidavit dated 15.07.2015 of the complainant has been annexed as **Annexure P-1.**

Upon notice, the parties have put in appearance through their respective Counsel.

The complainant-Gurmit Kaur, is present in Court, duly identified by her Counsel, acknowledges the contents of her affidavit. She states that she has already received a sum of Rs. 60,000 as full and final payment towards all her claims. Another sum of Rs. 20,000/- by way of demand draft has been paid by the Counsel for petitioner and received by her in Court during the course of hearing. A copy of the same has been retained for the purpose of record. She further states that she has no objection, if the offence is compounded and the order of conviction and sentence of the petitioner is set aside.

Learned Counsel for the petitioner undertakes to deposit a sum of Rs. 20,000/- as costs towards 15% of the check amount in the light of the decision of the Hon'ble Supreme Court rendered in **Damodar S. Prabhu Vs. Sayed Babalal H. 2010(2)RCR (Criminal) 851.**

The legal position that the offence under Section 138 of the Act, in view of the provisions of Section 147 of the Act, can be compounded even after the conviction, at the stage of revision is no longer res-integra, Hon'ble Supreme Court in the case of **O.P. Dholkia Vs. State of Haryana & Anr. 2000(1)SCC 762** permitted the compounding of the

offence despite conviction and sentence upheld at three stages after the convict had discharged his debt liability to the satisfaction of the complainant. Similar view was reiterated in **Shailesh Shyam Parsekar Vs. Baban @ Vishwanath (2005)4 SCC 162** and **Rama Reddy Vs. Annapurna Seeds & Anr.(2005)10 SCC 632**. Recently, the Hon'ble Supreme Court in **Vinay Devanna Nayak vs. Ryot Seva Sahakari Bank Ltd. 2008(1) RCR (Criminal)** has set aside the conviction and sentence recorded and affirmed upto the High Court and thereby acquitted the offender of the charges levelled against him in view of the matter having been compromised after discharging of the debt liability.

Keeping in view the aforesaid settled legal position and the fact that the petitioner has discharged his entire debt liability to the satisfaction of the complainant, this court is of the opinion that there is no legal impediment in invoking the powers under Section 147 of the Act and compounding the offence.

After hearing counsel for the parties and keeping in view the fact that the complainant has received his amount and has no objection if the revision petition is allowed and the offence is compounded and sentence is set aside. This is, however, subject to the petitioner depositing a sum of Rs. 20,000/- with the District Legal Services Authority, Kurukshetra, as costs. It is clarified that the petitioner shall be released only on furnishing the proof of deposit of costs.

Disposed of in the above terms.

September 24, 2015

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(JASWANT SINGH)
JUDGE