

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

CRR No. 2868 of 2014 (O&M)

Date of Decision: March 30, 2015

Ram Singh

...Petitioner

Versus

Punjab National Bank

...Respondent

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. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Madan Gupta, Advocate
for the respondent.

Paramjeet Singh, J. (Oral)

Present criminal revision has been preferred by the petitioner against judgment dated 19.08.2014 passed by the Additional Sessions Judge (Fast Track Court), Patiala, thereby dismissing the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 22.11.2013 passed by the Judicial Magistrate Ist Class, Patiala, vide which the petitioner has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'N.I.Act') and sentenced to undergo rigorous imprisonment for a period of six months and pay compensation of the half of the cheque amount to the complainant.

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

On 13.03.2015, this Court passed the following order:-

“Learned counsel for the petitioner states that cheque amount involved in the complaint was Rs.2 lacs and the trial Court has awarded him sentence for a period of 6 months and Rs.1 lakh as compensation. He has already paid the cheque amount of Rs.2 lacs and is ready to pay Rs. 1 lakh as compensation to the respondent. The petitioner will bring the draft on the next date. Learned counsel for respondent states that he will compromise the matter with respect to the cheque amount.

The respondent-bank is directed to file affidavit whether the bank is ready to compromise the matter on the receipt of total Rs.3 lacs.

*In addition to it, the petitioner is also directed to bring the draft of 15% of the cheque amount in favour of State Legal Services Authority, Punjab, in compliance with the directions of the Hon'ble Supreme Court of India in **Damaodar S. Prabhu Vs. Sayed Babalal H.2010 (2) R.C.R. (Criminal) 851.***

Adjourned to 30.03.2015”.

In compliance of order dated 13.03.2015, the petitioner has brought a bank draft in a sum of Rs.1,00,000/- which has been handed over to Mr. Jagjit Singh, Manager of the respondent-bank, who is present in Court.

Learned counsel for respondent on instructions from Mr. Jagjit Singh, Manager of respondent-bank states that since the respondent has received the amount of Rs.2 lacs towards cheque amount and Rs.1 lakh as compensation granted by the trial Court, the respondent has no objection if the complaint is quashed on the basis of compromise, and resultantly the conviction and sentence of the petitioner be set aside. An affidavit dated 30.03.2015 of Mr. Jagjit Singh to this effect has been filed in Court which is taken on record.

Learned counsel for the petitioner has also brought another demand draft of Rs.30,000/- i.e. 15% of the cheque amount in favour of State Legal Services Authority, Punjab. The same is taken on record and Registry is directed to transmit the said demand draft to the State Legal Services Authority, Punjab.

The Hon'ble Apex Court in the matter of ***Damodar S. Prabhu versus Sayed Bablal H.*** reported in ***2010(2) R.C.R. (Criminal) 851***, 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 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 compromise arrived at between the parties and keeping in view the law laid down by the Hon'ble Apex Court in the matter of ***Damodar S. Prabhu (supra)***, impugned judgments and order of sentence are set aside and criminal complaint filed by the complainant is quashed. The present revision is disposed of accordingly. The petitioner is stated to be already on bail. However, it will not preclude the complainant from availing civil remedy in accordance with law.

30.03.2015
prince

(Paramjeet Singh)
Judge