

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRR-2979-2015 (O&M)

Date of Decision: September 8, 2015

Parminder Singh

...Petitioner

Versus

Nitin Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Suvir Kumar, Advocate,
for the applicant/petitioner.

Mr. Tarun Vir S. Lehal, Advocate,
for the non-applicant/respondent.

1. *Whether Reporters of 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?*

NARESH KUMAR SANGHI, J. (Oral)

CRM-29072-2015:

Prayer in this criminal miscellaneous application, filed under Section 482, Cr.P.C., is for pre-poning the hearing of CRR-2979-2015 from 17.9.2015 to an early date in view of the compromise effected between the parties.

Notice of motion of the application.

Mr. Tarun Vir S. Lehal, Advocate, who is present in the Court, accepts notice on behalf of the non-applicant/respondent.

After hearing learned counsel for the parties, hearing of CRR-2979-2015 is pre-poned from 17.9.2015 and taken on today's board for final disposal.

Criminal miscellaneous application stands disposed of.

CRM-29073-2015:

Prayer in this criminal miscellaneous application, filed under Section 147 of the Negotiable Instruments Act, 1881 (for brevity, 'the Act'), read with Section 482, Cr.P.C., is for compounding of the offence punishable under Section 138 of the Act.

After hearing learned counsel for the parties and going through the contents of the application, which is duly supported by an affidavit of the non-applicant/respondent-complainant, the parties are permitted to compound the offence punishable under Section 138 of the Act, which is compoundable as per the provisions contained in Section 147 of the Act.

Criminal miscellaneous application stands disposed of.

CRR-2979-2015:

Challenge in this criminal revision petition is to the judgment dated 13.7.2015, passed by learned Additional Sessions

Judge, Ludhiana, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 138 of the Act, recorded by learned Judicial Magistrate First Class, Ludhiana, was dismissed.

Learned counsel for the petitioner submits that as per the allegations levelled by the complainant/respondent, Nitin Kumar, a sum of ₹1,50,000/- (Rupees one lac and fifty thousand only) was given as a loan to the petitioner by the respondent. When the petitioner failed to repay the said amount, then a criminal complaint was presented for prosecution of the petitioner for the offence punishable under Section 138 of the Act. Learned Trial Court held the petitioner guilty and awarded the sentence of rigorous imprisonment for six months and further directed the petitioner to pay a fine of ₹5,000/- (Rupees five thousand only) and in default thereof to undergo further simple imprisonment for one month. The fine imposed was deposited with learned Trial Court. The appeal filed by the petitioner was dismissed and, hence, the present revision petition was filed before this Court. He further submits that during pendency of the revision petition, better sense has prevailed and both the factions have resolved their dispute and effected a compromise and in consequence thereof the agreed amount of ₹70,000/- (Rupees seventy thousand only) has been paid to the complainant/respondent by way of bank draft today in the

Court. He further submits that the offence punishable under Section 138 of the Act is compoundable, as per the provisions contained in Section 147 of the Act. He further submits that while exercising the revisional jurisdiction this Court can accept the compromise and allow the present criminal revision petition. He further points out that the petitioner has already served the jail imprisonment for two months.

Learned counsel for the complainant/respondent submits that he has instructions to state at the bar that the complainant/respondent, Nitin Kumar, has sorted out his dispute with the petitioner and has no objection if the present revision petition is accepted on the basis of the compromise and the petitioner is acquitted of the charge levelled against him. He has also conceded the fact that the offence for which the petitioner has been convicted and sentenced, is compoundable and the compromise can be accepted by this Court while exercising the revisional jurisdiction.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The disputed cheque was of ₹1,50,000/- (Rupees one lac and fifty thousand only). Out of the total substantive sentence of rigorous imprisonment of six months, the petitioner has already

suffered incarceration for approximately two months. The parties have sorted out their dispute and effected a compromise. The complainant/ respondent, Nitin Kumar, who is present in the Court, vide his statement of even date before this Court has admitted the factum of the compromise and has no objection if the impugned order and consequential proceedings emanating therefrom are set aside and the petitioner is acquitted of the charge levelled against him. As per the provisions contained in Section 147 of the Act, the offence punishable under Section 138 of the Act is compoundable.

Keeping in view totality of the circumstances of the case, the compromise effected between both the parties is accepted. Present criminal revision petition is allowed. The judgment of conviction and the order of sentence recorded by learned Trial Court and the judgment of the Appellate Court are set aside. The sentence of jail imprisonment and order of fine are set aside. The petitioner, Parminder Singh, is acquitted of the charge for the offence punishable under Section 138 of the Act. The fine if paid by the petitioner shall be refunded to him as per norms.

The petitioner be set at liberty at once, if not required to be in custody in any other case.

September 8, 2015
P Kapoor

(NARESH KUMAR SANGHI)
JUDGE