

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

CRR-3173 of 2015 (O&M)

Date of decision: October 09, 2015

Ajit Singh

...Petitioner

Versus

Nachhatar Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Amjad Khan, Advocate, for the petitioner.
Mr. Mohd. Salim, Advocate for the respondent No.1.
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.(oral)

This is a revision petition against the conviction of the accused-petitioner under Section 138 of the Negotiable Instruments Act (hereinafter referred to be as “the Act”). The petitioner has been sentenced to undergo rigorous imprisonment for one year and to pay a compensation of Rs.5000/- to defray the amount of cheque and other expenses undertaken by the complainant to prosecute him.

A complaint was filed by the complainant-respondent No.1 against the petitioner on the allegations that the petitioner issued a post dated cheque bearing No.533310 dated 01.03.2010 for Rs.50,000/- in favour of respondent No.2. However, the said cheque was dishonoured with the remarks “Account closed”. A trial ensued. The petitioner was convicted by the court of Judicial Magistrate 1st Class, Malerkotla and conviction was upheld by the appellate court.

On October 05, 2015, Rakesh Kumar son of Satpal, Attorney of complainant Nachhattar Singh had come present before this

court, who was duly identified by counsel for respondent No.1. He filed his affidavit, according to which a compromise has been arrived at between the petitioner and the respondent No.1 and a cheque of Rs.50,000/- has been received by him. Now the complainant has no objection if the present petition is disposed of in favour of the petitioner.

In view of the fact that offence under Section 138 of the Act is compoundable under Section 147 of the Act, the statement made by the complainant would amount to withdrawal from prosecution as envisaged by Section 321 Cr.P.C. In such circumstances and in view of the judgment rendered by this court in *Ritesh Gupta v. State of Punjab and another, 2009 (3) R.C.R. (Criminal) 61*, the plea of the parties is accepted. The conviction and sentence imposed upon the petitioner for offence punishable under Section 138 of the Act is hereby set-aside and the petitioner is acquitted of the offence for which he was convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

(RAJAN GUPTA)
JUDGE

October 09, 2015
'Rajpal'