

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

CRR No. 379 of 2015 (O&M)
Date of Decision: April 27, 2015

Surinder Singh

.... Petitioner

Versus

Hans Raj Gujral

.... Respondent

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Inderjeet Singh, Advocate
for the petitioner.

Mr. Rakesh Kumar Sharma, Advocate
for the respondent.

JASPAL SINGH.J (ORAL)

CM No. 9810 of 2015

In view of averments made in the application, the same is
allowed and the case is preponed from May 11, 2015.

The case is taken up today itself.

CRR No. 379 of 2015 (O&M)

Challenge in this revision petition is to the judgment and
order of conviction dated January 19, 2015 passed by learned
Additional Sessions Judge, Yamuna Nagar at Jagadhari whereby
judgment of conviction dated June 07, 2013 and order of sentence
dated June 11, 2013 passed by learned Judicial Magistrate Ist
Class, Jagadhari was upheld vide which petitioner has been
convicted under Section 138 of Negotiable Instruments Act (for

short "Act") and sentenced to undergo RI for a period of one year. Petitioner was also directed to pay compensation to the complainant to the tune of ₹70,000/- in terms of section 357(3) Cr.P.C. within two months and in default of payment of compensation to further undergo RI for three months.

2. Briefly stated, facts giving rise to the instant *lis* are that petitioner took friendly loan of ₹50,000/- for one month. Out of the afore-said amount, a sum of ₹5000/- was repaid. Petitioner issued a cheque No. 821250 dated July 05, 2009 amounting to ₹45,000/- in favour of complainant/respondent, in order to discharge his legally enforceable liability. The said cheque on its presentation before bank for encashment was dishonoured and returned back with remarks "funds insufficient". A legal notice dated October 12, 2009 was also issued to the petitioner by the complainant/respondent but to no response and ultimately, a complaint under Section 138 of the Act was preferred.

3. After hearing learned counsel for the parties and perusing the record, learned trial Court convicted accused-petitioner under Section 138 of the Act and sentenced to the period fully reflected in para 1 of this judgment.

4. Aggrieved against judgment of conviction dated June 07, 2013 and order of sentence dated June 11, 2013 passed by JMJC, Jagadhari, petitioner preferred an appeal before learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, which was also dismissed on January 19, 2015. Hence, the present petition.

5. During the pendency of instant revision petition, parties arrived at an amicable settlement. According to which complainant/respondent has received full and final payment from the petitioner and nothing remains due now against the petitioner. This fact has been categorically admitted by learned counsel for the petitioner.

6. Learned counsel for the petitioner has submitted that since compromise has arrived at between the parties and the matter has been settled finally with the intervention of respectables, the liability stood discharged. Accordingly, offence under Section 138 of the Act is permitted to be compounded in view of observations made and law laid down by Hon'ble Supreme Court in case **Damodar S. Prabhu v. Sayed Babalal H; 2010 (5) SCC 663.**

7. Since there remains no dispute between the parties after amicable settlement and discharge of liability, this Court is left with no other option but to allow the petition. Resultantly, instant revision petition is accepted and orders of conviction and sentence passed by the Courts below are set-aside. Petitioner has been acquitted of the charge framed against him on the basis of compromise. He has been ordered to be set at liberty forthwith if not required in any other case.

9. While parting with this judgment, petitioner is directed to deposit 15% of the cheque amount with the Haryana State Legal Services Authority, within a period of 30 days from the date of receipt of a certified copy of this judgment. However, it is made

clear that in case petitioner commits any default to deposit the amount within afore-said prescribed period, instant revision petition would stands dismissed without any kind of notice.

April 27, 2015
sham

(JASPAL SINGH)
JUDGE