

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

CRR-4519 of 2015 (O&M)

Date of decision: December 04, 2015

Major Singh

...Petitioner

Versus

Jaswinder Singh and another

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Chandeeep, Advocate,
for Mr. Digvijay Nagpal, Advocate, for the petitioner.

Mr. Gobind Koria, Advocate,
for Mr. Jagdeep Singh, Advocate, for respondent No.1.

Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J.

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 fine of Rs.2000/-.

A complaint was filed by the complainant-respondent against the petitioner on the allegations that the petitioner issued a cheque bearing No.725973 dated 06.12.2012 for Rs.1,50,000/- drawn on State Bank of India, Malout, in favour of respondent No.1. However, the said cheque was dishonoured with the remarks “Insufficient funds”. A trial ensued. The petitioner was convicted by the court of Judicial Magistrate 1st Class, Malout and conviction was upheld by the appellate court.

Learned counsel for respondent No.1 submits that Jaswinder Singh complainant/respondent No.1 is present in court and is duly identified by him. According to the counsel, a compromise has been arrived at between the petitioner and respondent No.1. Learned counsel for respondent No.1 has placed on record an affidavit of the complainant Jaswinder Singh, wherein it has been stated that he has compromised the matter with Major Singh petitioner who has paid back the cheque amount and nothing is due towards him and now he has no grudge against him and has no objection if the present petition is disposed of in favour of the petitioner. Affidavit is taken on record as Mark 'A'.

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***, plea of the parties is accepted. 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

December 04, 2015
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