

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR 4964 of 2015

Date of Decision: December 22, 2015

Gursewak Singh

.....Petitioner

Vs.

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

-. -

Present:- Mr.D.R. Punia, Advocate
for the petitioner.

-. -

M.M.S. BEDI, J. (ORAL)

The petitioner has been convicted in proceedings under Section 138 of the Negotiable Instruments Act by the trial Court as well as by the Appellate Court. The petitioner opted to evade appearance at the time of final decision in the appeal as such the appeal was decided in his absence. The amount of subject matter of the controversy is Rs.44000/-. As a rule, the petitioner cannot be heard unless and until he surrenders to custody by appearing before the Appellate Court. No indulgence can be shown as the petitioner is neither on bail nor he is in custody but in view of the offer given by the counsel for the petitioner to compound the offence by paying the

amount of the cheque alongwith reasonable cost, I deem it appropriate to grant him liberty to compound the offence as per the judgment in **Damodar S. Prabhu Vs. Syed Babalal H.**, 2010 (2) RCR (CrI.) 851.

In view of the said offer, the indulgence can be shown by this Court in the exercise of inherent jurisdiction as per the observations made in **Vivek Rai and another Vs. High Court of Jharkhand through Registrar General and others**, 2015 (1) RCR (CrI.) 900. This petition is disposed of with a direction that petitioner will appear before the Appellate Court alongwith a bank draft of Rs.70000/- in the name of complainant Tarlok Singh which would include the amount of the cheque with cost of Rs.20000/- for unnecessary harassment caused to the complainant under Section 309 Explanation 2 Cr.P.C. and further cost as per the judgment in **Damodar S. Prabhu's** case (supra), within a period of 15 days. In case of petitioner's doing so, he will be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the Appellate Court. It will be open to the petitioner to seek compounding of the offence. The Appellate Court after issuing notice to the complainant would permit compounding calculating any amount payable as per the judgment in **Damodar S. Prabhu's** case (supra) within a period of 15 days. The cost of Rs.20000/- has been imposed by this Court on the petitioner payable to the complainant.

Since this case has been decided in limine, it will be open to the complainant to approach this Court for review of the order in case the order is not acceptable to the complainant.

It is made clear that in case the petitioner does not appear before the Appellate Court within a period of 15 days, as directed hereinabove, this petition will be deemed to have been dismissed.

December 22, 2015
sanjay

(M.M.S.BEDI)
JUDGE