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

**CRR No.741 of 2015(O&M)
Date of Decision: 28.07.2015**

VINOD KUMAR

.....Petitioner

Vs

NABHKIRAN AGRO INDUSTRIES AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Kamal Mor, Advocate
for the petitioner.

Mr. Saurabh Dalal, Advocate
for Mr. Anil Garg, Advocate
for respondents No.1 & 2.

Mr. Varun Sharma, AAG, Punjab.

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?*

RAJ MOHAN SINGH, J. (Oral)

CRM-23121-2015

Application is allowed. Compromise (Annexure P2) and affidavit are taken on record.

CRR No.741 of 2015(O&M)

In this revision petition, order of 01.11.2014 has been assailed vide which judgment of conviction and order of sentence dated 29.04.2013 passed by Judicial Magistrate Ist Class, Malerkotla

was upheld. During pendency of present revision petition, parties have entered into amicable settlement. Copy of fresh compromise has been placed on record as Annexure P2. According to compromise, total amount of Rs.5,60,000/- in cash has been paid to the complainant on 29.06.2015 inclusive of cheque amount of Rs.3,75,000/-. On receipt of such aforesaid payment, complainant has agreed to have no objection in case sentence and conviction of the petitioner are set aside by the High Court.

Compromise dated 10.07.2015 is reproduced here as under:-

"We the below signed persons have executed the compromise deed in the matter between Kuljit Singh S/o S. Bakhshish Singh Proprietor M/s Nabhkiran Agro Industries, Malerkotla Road, Amargarh and Vinod Kumar S/o Sh. Rajinder Singh R/o Kailana, Tehsil Gannaur, District Sonapat (Haryana). Regarding which the Ld. Sessions Court has passed the order for 1 year imprisonment to Vinod Kumar u/s 138 NI Act. Regarding which one Recovery Suit is also filed before Hon'ble Court of Malerkotla. Regarding which on 10.07.15 the respectable persons of society have compromised the matter between both the parties and according to this Rajinder Singh father of Vinod Kumar after settling the due amount in Rs.5 Lacs 60 Thousand which Vinod Kumar has to pay has paid on 29.06.2015 to Harmit Singh S/o Bakhshish Singh brother of Kuljeet Singh R/o Chapraundi for the payment of

bounced cheque in the presence of witnesses in cash. Now in regard to this the case which is pending and fixed for 21.07.2015 before the Hon'ble High Court of Punjab & Haryana, Chandigarh, on that day Kuljit Singh will give the statement before the Hon'ble Court so that case can be disposed off in favour of Vinod Kumar and the first party Kuljit Singh will withdraw any case or application filed/pending regarding this dispute in any Court. After this there will be no dues or transaction left between both the parties. This decision has been taken with consent of both the parties without any pressure and greed. Both the parties will be duly bound by this and after this compromise none of the party will not file any application or case in any court against each other."

Offence under Section 138 of Negotiable Instruments Act is having compensatory mechanism though it has been couched in criminal overtone. The offence can be compounded under Section 147 of N.I. Act even at revisional stage.

In view of aforesaid, indulgence of this Court is required to be given as the dishonour of cheque is having compensatory aspect and it should be given precedence over the punitive nature of offence. It is almost a civil wrong clothed in criminal overtones. The priority should be given to compensatory phenomenon. In **2011, Volume 2 RCR (Crl.) 390, Kaushalya Devi Vs. Roop Kishore**, the Hon'ble Apex Court has endorsed the aforesaid proposition.

The compromise in question would go in a long way to

harmonise mutual relationship between the parties so as to serve an everlasting tool in their favour. The revisional jurisdiction in terms of Section 401 Cr.P.C. would bring ends of justice in favour of both the parties and the same would be fully in consonance with the spirit of Section 147 of Negotiable Instruments Act. I am squarely fortified in my view on the strength of **Damodar S. Prabhu Vs. Sayed Babu Lal H, AIR, 2010 SC 1907.**

In view of aforesaid, impugned judgment dated 01.11.2014 passed by Additional Sessions Judge, Sangrur and judgment of conviction and order of sentence dated 29.04.2013 passed by Judicial Magistrate Ist Class, Malerkotla, are hereby set aside. Natural consequences will follow.

July 28, 2015
SwarnjitS

(RAJ MOHAN SINGH)
JUDGE