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

Crl. Rev. No.744 of 2015 (O&M)
Date of decision: May 05, 2015

Madan Soni ...Petitioner

Versus

Avtar Singh & another ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Ashish Verma, Advocate, for the petitioner.
Mr. Vishal Goel, Advocate for
Mr. J.S. Thind, Advocate for the complainant.
Mr. P.K. Jangra, Addl. Advocate General, Haryana.

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 two years and to pay a compensation of Rs.2,80,000/- 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 cheque No.371831 for Rs.2,00,000/- on 22.07.2008 out of his account in State Bank of India, ADB, Sirsa in favour of respondent No.2. However, the said cheque was dishonoured due to insufficient funds in the account. A trial ensued. The petitioner was convicted by the court of Judicial Magistrate 1st Class, Sirsa and conviction was upheld by the appellate court.

RAJ PAL SINGH
2015.05.05 16:56
I attest to the accuracy and
authenticity of this document
Chandigarh

Today, learned counsel for the respondent No.1 has put in appearance. He submits that Avtar 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 the respondent-complainant. Learned counsel has placed on record a deed of compromise, wherein it has been stated that respondent No.1 has received the full and final payment from the petitioner by way of demand draft No.85858 dated 25.4.2015. The compromise-deed 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,*** 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

May 05, 2015
'rajpal'

RAJ PAL SINGH
2015.05.05 16:56
I attest to the accuracy and
authenticity of this document
Chandigarh