

CRR-828-2015 (O & M)

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

**CRR-828-2015 (O & M)
Date of Decision:06.04.2015**

Sarishta Rani Bhatti

... Petitioner(s)

Versus

Ajay Kapoor and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. R.S.Manhas, Advocate,
for respondent no.1.

Mr. B.S.Cheema, DAG, Punjab.

Paramjeet Singh, J.(Oral)

Present criminal revision has been preferred by the petitioner against judgment dated 09.01.2015 passed by learned Additional Sessions Judge, Pathankot, thereby dismissing the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 03.11.2014 passed by learned Chief Judicial Magistrate, Pathankot vide which petitioner has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of

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₹ 5,000/-, in default thereof, to further undergo rigorous imprisonment for thirty days.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the parties state that dispute has been settled amicably.

Learned counsel for the petitioner states that the petitioner has brought cheque No.115822 dated 30.03.2015 amounting to ₹ 2,00,000/- i.e. cheque amount involved in the complaint, in favour of respondent no.1. The said cheque has been handed over to respondent no.1 present in Court. The petitioner has also brought the demand draft No.115823 dated 30.03.2015 amounting to ₹ 30,000/-, being compounding charges, in favour of the State Legal Services Authority, Punjab. The said demand draft is taken on record. Learned counsel for the petitioner further states that the petitioner will not file any complaint either before the police authority or before any authority regarding the cheque in dispute. The petitioner has filed affidavit to this effect.

Learned counsel for respondent no.1, on instructions from respondent no.1 present in Court, states that respondent no.1 would have no objection, if the present revision is allowed and the petitioner is acquitted in the complaint in question on the basis of compromise. Learned counsel also states that respondent no.1 has also received cheque No.115822 dated 30.03.2015 amounting to ₹ 2,00,000/-.

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Photocopy of cheque No.115822 dated 30.03.2015 is taken on record.

The Hon'ble Apex Court in the matter of **Damodar S. Prabhu versus Sayed Bablal H.** reported in **2010(2) R.C.R. (Criminal) 851**, has held as under:-

“15. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a

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subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount. Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority."

Consequently, in view of compromise effected between the parties and keeping in view the law laid down by the Hon'ble Apex Court in the matter of ***Damodar S. Prabhu (supra)***, instant revision is allowed; impugned judgments and order of sentence are set aside and

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criminal complaint filed by respondent no.1-complainant is quashed.

However, it will not preclude respondent no.1-complainant from availing civil remedy in accordance with law.

Registry is directed to transmit demand draft No.115823 dated 30.03.2015 to the State Legal Services Authority, Punjab.

06.04.2015
parveen kumar

(Paramjeet Singh)
Judge