

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

**CRR No.905 of 2015 (O&M)
Date of Decision: 21.09.2015**

BHIM SINGH

.....Petitioner

Versus

VINOD KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Virender Soni, Advocate
for the petitioner.

Mr. Sanchit Punia, Advocate
for the respondent-complainant.

ANITA CHAUDHRY, J. (Oral)

Report of Chief Judicial Magistrate, Hisar has been received.

The present revision petition has been filed by the petitioner against the order dated 02.03.2015, passed by the learned Additional Sessions Judge, Hissar, vide which, impugned judgment of conviction and order of sentence dated 09.12.2013/11.12.2013 convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo R.I. for a period of six months and to pay a fine of Rs.60,000/- as compensation, passed by learned Judicial Magistrate Ist Class, Hissar has been upheld.

During the pendency of present revision petition, it is claimed that the parties have entered into compromise and the cheque amount has been paid by the petitioner to the complainant.

Report has been called from the Chief Judicial Magistrate, Hissar after statements of both the parties with respect to the compromise were recorded. Chief Judicial Magistrate, Hissar has reported that the compromise is voluntary and without any pressure or coercion. He has also sent copy of joint statement of parties along with the report.

Learned counsel for the petitioner urges that parties have compromised the matter and report of the Chief Judicial Magistrate, Hissar with respect to the compromise has also been received. The entire amount stands repaid to the complainant; and the petitioner has also deposited an amount of Rs.9,000/- i.e. 15% of the cheque amount, vide receipt No.0001692 dated 25.05.2015 with the Punjab State Legal Services Authority and original receipt has been placed on record in this regard. It is prayed that in view of the compromise, the may be compounded.

Learned counsel appearing for the respondent-complainant admits the factum of receipt of the entire payment. The counsel for respondent has no objection if the matter is compounded and impugned judgments of conviction & sentence are set aside.

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

In **Damodar S.Prabhu vs. Sayed Babalal, JT 2010**

(4) SC 457, the Full Bench of Hon'ble Supreme Court has issued the following guidelines in cheque bouncing cases:-

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 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.

In view of the judgment of the Apex Court in **Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (2) RCR (Crl.) 851**, the matter can be compounded at the stage of pendency of the proceedings before the High Court.

Considering the above circumstances, the offence under Section 138 of the Negotiable Instruments Act is compounded.

Keeping in view the fact that the matter has been finally settled, the liability is discharged; the present petition is allowed; judgment of conviction and order of sentence dated 09.12.2013/11.12.2013 passed in complaint case No.1142-II of 2014, by the Judicial Magistrate Ist Class, Hissar; and judgment dated 02.03.2015, passed in Criminal Appeal No.86 of 09.01.2014/09.10.2014, by the Additional Sessions Judge, Hissar, confirming the conviction and sentence of the accused-petitioner, are set aside. The present revision is allowed and the petitioner is acquitted on the basis of compromise.

(Anita Chaudhry)
Judge

21.09.2015

'Sunil Sehgal'