

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-14279 of 2016

.....

Date of decision:5.10.2016

Pankaj Kumar

.....Petitioner

v.

Sachin Vema

.....Respondent

....

(2) Criminal Misc. No.M-14281 of 2016

.....

Pankaj Kumar

.....Petitioner

v.

Parveen Kumar

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Gourav Goel, Advocate for the petitioner.

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Inderjit Singh, J.

This order will dispose of the above mentioned two petitions filed under Section 482 Cr.P.C. praying for quashing of orders dated 1.4.2016 (Annexure-P.4) passed by Additional Sessions Judge, Patiala, whereby applications (Annexure-P.2) for permission to make the payment and compounding of the offence have been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the petitioner filed an application

for permission to make the payment of cheque amount and for compounding the offence. As per the orders dated 1.4.2016 passed by the Special Judge, Patiala, it has been written that the respondent stated that he does not want to settle the dispute and also not ready to receive the cheque amount of ₹70,000/- and his statement to this effect has also been recorded by the Court. In view of the fact that the applications for condonation of delay have been dismissed so the Court has not accepted these applications. Aggrieved against these orders, the present petitions have been filed.

From the record, I find that the respondent/complainant is not giving the consent for compounding of the offence. In JIK Industries Limited and others v. Amarlal V. Jumaní and another, 2012 (1) R.C.R. (Criminal) 822, the Hon'ble Supreme Court has held that offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') has been made compoundable under Section 147 of the NI Act, but no special procedure has been prescribed under NI Act relating to compounding of offence. It has been held that the basic procedure of compounding an offence laid down in Section 320 Cr.P.C. will apply to compounding of an offence under NI Act.

In view of the law laid down by the Hon'ble Supreme Court in the above mentioned case, it is clear that the procedure as given in Section 320 Cr.P.C. for compounding of an offence will apply and as per the procedure the consent of the other party is necessary and without the consent of the complainant, the offence cannot be compounded. The Hon'ble Supreme Court in the above said judgment also held that Company

Court sanctioned a scheme of compromise under Section 391 of the Companies Act between company and its creditors. As a result of sanction of a scheme under Section 391 of the Companies Act, there is no automatic compounding of offence under Section 138 of the NI Act even without the consent of the complainant. This law laid down by the Hon'ble Supreme Court in the above mentioned case shows that without the consent of the complainant or the second party there cannot be any compounding of the offence. Therefore, the orders dated 1.4.2016 passed by the learned Special Judge, Patiala, are correct as per law and no illegality has been committed by the Court below.

Therefore, finding no merit in the present petitions, the same are dismissed.

October 5, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No