

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31136 of 2015
Date of Decision: 26.09.2016

Rajan Grover

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sandeep Verma, Advocate, for the petitioner.

Ms.Mahima Yashpal, AAG, Haryana.

Ms.Jhum Jhum Sarkar, Advocate, for
respondents No.2 and 3.

RITU BAHRI, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for issuance of directions to the respondent to the effect that the sentences of conviction (Annexure P-1) colly passed by learned JMIC, Gurgaon, under Section 138 of the Negotiable Instruments Act, 1881 vide judgment and orders dated 09.06.2014 in the criminal complaint No.793 of 2013, 794 of 2013 and 826 of 2013 whereby the petitioner has been convicted with rigorous imprisonment for a period of one year each be made to run concurrently.

Vide order dated 15.12.2015, complainant was impleaded as respondents No.2 and 3 and Mr.J.J.Sarkar, Advocate has appeared for the complainant and she had sought time to file reply. Reply of complainant has been received vide order dated 09.02.2016. As per Annexure R-1

parties have settled their dispute subject to payment of Rs.2,50,00,000/- to the respondents/claimants by the petitioner on or before 21.03.2016.

A perusal of memorandum of understanding shows that complaint had been made on account of dishonoring of 3 cheques amounting to Rs.7,94,48,009/- and the complaints have been allowed on 09.06.2014 and it was ordered to be paid Rs.8,90,00,000/- (Rs.3,30,00,000/-+ Rs.4,50,00,000/- +1,10,00,000/-) towards compensation to the complainant by the petitioner. Finally the compromise has been effected by accepting Rs.2,50,00,000/-.

Learned counsel for the complainant is present in Court and states that in terms of the compromise, Rs.2,50,00,000/- has been received by the complainant/respondent No.2 and 3.

The Supreme Court in **Damodar S.Prabhu Vs. Sayed Babalal H. 2010(5)SCC 663**, whereby, multiple complaints have been tried by the prosecution for dishonouring the cheques, where a loan is taken by accused and the cheques have been dishonoured in repayment of loan which is to be made on monthly basis.

The offence under Section 138 of N.I.Act, is compoundable under the Negotiable Instruments Act and the same can be done at the instance of the complainant or with the leave of the Court. In paragraph 15, Hon'ble Supreme Court has observed that compounding of offence at the later stage of litigation in cheque bouncing cases is permissible and led down the following 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.

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.

In view of the above guidelines, petitioner at this stage is being directed to deposit Rs.50,000/- as cost within four weeks with

Haryana State Legal Services Authority from the date of receipt of this order.

In view of the judgment of Supreme Court and compromise, sentence of the petitioner is reduced to the period already undergone and are ordered to run concurrently.

(RITU BAHRI)
JUDGE

26.09.2016
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