

524 CRIMINAL REVISION No. 3093 of 2010 (O&M)

VASDEV

V/S

MANISH MADAN

Present: Appellant-in person with
Mr. Rakesh Gupta, Advocate

Respondent-in person with
Mr. Ashish Gupta, Advocate

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Present revision is by petitioner-Vasdev against the judgment of conviction and sentence for the commission of offence punishable under Section 138 of the Negotiable Instruments Act.

The facts are that petitioner-Vasdev had issued a cheque dated 24.11.2003 for a sum of ₹ 90,000/- in favour of complainant-Manish Madan which was dishonoured by the bank. Resultantly, the complaint was filed by complainant-Manish Madan. Present petitioner was convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of 1½ years and to pay a fine of ₹ 2,000/-. He was also directed to pay compensation of ₹ 1,25,000/- to the complainant vide judgment dated 3.7.2002 and the order dated 5.7.2010 passed by Judicial Magistrate, Ist Class, Karnal. The present petitioner filed the appeal which was dismissed by Additional District Judge, Karnal vide judgment dated 20.10.2010.

Hence, this revision petition.

During the pendency of the revision petition settlement had been arrived at between the complainant-Manish Madan and the family members of petitioner (since petitioner was in judicial custody) for a total

sum of ₹ 1,40,000/- so received by the complainant. It was agreed that the complainant shall give a statement in the Court for compounding of the offence and will have no objection for setting aside the conviction and the acquittal of Vasdev. The compromise Annexure P-1 was placed on record so as the affidavit of complainant-Manish Madan endorsing the compromise and also that now no amount whatsoever of the deponent is left.

Today in support of the said compromise and the affidavit Manish Madan has made a statement of having received the cheque amount and that no money is due towards the petitioner-Vasdev endorsing the compromise (Annexure P-1) and his affidavit. He has also stated that his complaint be dismissed as withdrawn. Petitioner had also stated that payment has already been made to the complainant and appropriate orders be passed in view of the statement/compromise and affidavit of the complainant.

We have noticed the compromise, affidavit and the statements of the complainant as well as the petitioner.

The matter has been compromised between the parties. The complainant has already received a sum of ₹ 1,40,000/- including litigation expenses as well and the complainant on the basis of said compromise seeks that his complaint be dismissed as withdrawn.

In this background, since parties have entered into settlement, we allow the parties to compound the offence. The natural corollary is that conviction and sentence, so recorded by the Trial Court and upheld by the Appellate Court to petitioner-Vasdev is set aside and he stands acquitted of the charges against him.

The revision petition stands disposed of accordingly in the aforesaid terms.

Copy of the order and statement be given to learned counsel/parties.

(S.K.Jain)
President

(Arvind Kumar)
Member

28.11.2016
Janki