

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

CRR-1070 of 2015 (O&M)

Date of decision: 18.5.2016

Rafik Khan

...Petitioner

Versus

Mahindra & Mahindra Financial
Service Ltd. & another

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. B.S. Saroha, Advocate, for the petitioner.

Mr. Nitin Thatai, Advocate for the respondent No.1.

Mr. Arun Luthra, AAG, Haryana for respondent No.2.

Rajan Gupta, J.(oral)

This is a revision petition against the conviction of the accused-petitioner under Section 138 of the Negotiable Instruments Act (hereinafter referred to be as “the Act”). The petitioner has been sentenced to undergo rigorous imprisonment for six months and to pay a compensation of Rs.10,000/- to defray the amount of cheque and other expenses undertaken by the complainant to prosecute him.

A complaint was filed by the complainant-respondent No.1 against the petitioner on the allegations that the petitioner issued a cheque bearing No.529703 dated 27.8.2008 for Rs.3,64,000/- in favour of respondent No.1. However, the said cheque was dishonoured with the remarks “account wrongly written”. A trial ensued. The petitioner was convicted by the court of Additional Chief Judicial Magistrate, Rewari and conviction was upheld by the appellate court.

Today, Anurag Sharma, Zonal Manager (Legal) Mahindra & Mahindra Financial Services Ltd. has come present before this court, who was duly identified by counsel for respondent No.1. He filed his affidavit to the effect that during pendency of present petition, petitioner had paid Rs.2,50,000/- before this court. Today respondent company has further received a sum of Rs.1,14,000/- in cash. It is further stated that total cheque amount i.e. Rs.3,64,000/- has been received by respondent No.1 and the company has no objection if petitioner is acquitted or discharged.

In view of the fact that offence under Section 138 of the Act is compoundable under Section 147 of the Act, the statement made by the complainant would amount to withdrawal from prosecution as envisaged by Section 321 Cr.P.C. In such circumstances and in view of the judgment rendered by this court in ***Ritesh Gupta v. State of Punjab and another, 2009 (3) R.C.R. (Criminal) 61***, the plea of the parties is accepted. The conviction and sentence imposed upon the petitioner for offence punishable under Section 138 of the Act is hereby set-aside and the petitioner is acquitted of the offence for which he was convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

(RAJAN GUPTA)
JUDGE

18.5.2016
'Rajpal'