

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

CRR No.2050 of 2014 (O&M).
Decided on:-16.03.2016.

Baljit Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. S.S. Grewal, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Ms. G.K. Turka, Advocate
for respondent No.2-complainant.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgment dated 14.5.2014 passed by learned Additional Sessions Judge, Patiala whereby his appeal filed against the judgment of conviction and order of sentence both dated 23.8.2013 passed by learned Sub-Divisional Judicial Magistrate, Rajpura was dismissed.

Briefly stated, the facts of the case are that the respondent-complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) alleging therein that the petitioner-

accused in discharge of his legal liability issued a cheque bearing No.677187 dated 19.3.2008 in the sum of ₹ 21,000/- drawn on Oriental Bank of Commerce, Rajpura in favour of the respondent-complainant. However, on presentation, the said cheque was dishonoured by the bank vide memo dated 25.3.2008 with the remarks "Exceeds Arrangement". Thereafter, legal notice dated 18.1.2012 was issued by the respondent-complainant to the petitioner-accused but the petitioner failed to make the payment. As such, the complaint was filed against him.

Learned Magistrate vide judgment dated 23.8.2013 convicted the petitioner for offence punishable under Section 138 of the Act and vide separate order of even date, sentenced him to undergo rigorous imprisonment for a period of six months and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo RI for 15 days.

Learned counsel for the petitioner contends that during pendency of the present petition, the petitioner has settled the matter and made the full payment to the respondent-complainant.

Learned counsel for the petitioner-accused further submits that in compliance of orders dated July 24, 2014 and March 03, 2016 passed by this Court, he has deposited the compounding fee of ₹ 3,150/- vide receipt No.921054 dated 11.3.2016 with the Punjab Legal Services Authority, Chandigarh. In this regard, Registry has also placed on record copy of the said receipt issued by the Member Secretary, Punjab Legal Services

Authority, Chandigarh.

Learned counsel for the petitioner also contends that in view of settlement between the parties, permission to compound the offence may also be granted and the petitioner may be acquitted of the charges framed against him.

Learned counsel appearing for the respondent-complainant admits the factum of settlement arrived at between the petitioner-accused and the respondent-complainant and submits that the entire outstanding amount stands repaid by the petitioner-accused as per the settlement. She further contends that the respondent No.2-complainant has no objection in case the offence is compounded or the petitioner is acquitted of charges framed against him. She further contends that amount of ₹ 25,000/-, which has already been deposited by the petitioner with the Registry in compliance of order dated July 24, 2014 passed by this Court, may be released to the respondent-complainant as the same is also part of the compounded amount.

I have heard learned counsel for the parties.

Hon'ble Apex Court in ***Damodar S. Prabhu Versus Sayed Babalal H. 2010(2) RCR (Criminal) 851*** has held that in a case of dishonour of cheques, compensatory aspect of the remedy should be given priority over the punitive aspect. Hon'ble Apex Court laid down the following guidelines for compounding of such like offences:-

“(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.”

Keeping in view the above facts and circumstances, it is apparent that the matter has been finally settled and the liability is discharged. The petitioner has also deposited 15% of the cheque amount with the Punjab State Legal Services Authority, Chandigarh as per the ratio of law laid down by Hon'ble Apex Court in ***Damodar S. Prabhu's case***

(supra), necessary permission to compound the offence under Section 138 of the Act is granted and the present revision petition is allowed. The amount of ₹ 25,000/-, which has already been deposited by the petitioner with the Registry in compliance of order dated July 24, 2014 passed by this Court, be also released to the respondent-complainant.

Consequently, the impugned judgment of conviction and order of sentence dated 23.8.2013 passed by learned Magistrate and affirmed by learned appellate Court vide judgment dated 14.5.2014 are set aside and the petitioner is acquitted of the charge levelled against him.

March 16, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE