

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

CRR-1184-2016(O&M)

Date of decision:-14.07.2016

Deepak Sharma

.....Petitioner

Versus

Devinder Pal Goyal

.....Respondent

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. Angel Sharma, Advocate for the petitioners.

Mr. Mandeep Kaushik, Advocate for the respondent-complainant.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgement dated 12.08.2015 passed by learned Additional Sessions Judge, Patiala whereby his appeal filed against the judgment of conviction and order of sentence dated 06.01.2015 passed by Presiding Officer, Evening Court, Rajpura, was dismissed.

Briefly stated, the facts fo the case are that the accused borrowed an amount of Rs.40,000/- from the complainant on 15.04.2005 for domestic purpose and promised to return the same on request of complainant. On 15.05.2007 complainant requested the accused for refund of borrowed amount and the accused in order to discharge his legal liability issued a duly signed cheque bearing No.933268 dated 15.05.2007 for a sum of Rs.40,000/- drawn on Oriental Bank of Commerce, ABC

Branch, Rajpura in favour of complainant. The complainant presented the said cheque for encashment in his account with Punjab National Bank, Rajpura but the said cheque was dishonoured with memo bearing remarks ***“Insufficient Funds”***. As such the complaint was filed against him.

Learned Magistrate vide judgment dated 06.01.2015 convicted the petitioner for offence punishable under Section 138 of the Negotiable Instruments Act and vide separate order of even date, sentenced him to undergo rigorous imprisonment for a period of one and half year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for one month.

Feeling aggrieved, the petitioner filed an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Patiala vide judgment dated 12.08.2015.

It is in these circumstances, the present revision petition has been filed by the petitioner-accused.

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

Learned counsel for the petitioner-accused further submits that in compliance of the order dated 12.04.2016 passed by this Court, he has handed over a *demand draft bearing No.354863* dated 14.07.2016 for an amount of Rs.30,000/- issued by State Bank of Patiala, in the name of the father of the respondent-complainant.

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 for the respondent fairly states that he has received the cheque amount and he has no objection in case the complaint in question is quashed and the petitioner may be acquitted of the charges framed against him.

I have heard learned counsel for the parties.

The order dated 12.04.2016 passed by this Court in is reproduced as under:

“Mr. Mandeep Kaushik, Advocate puts in appearance on behalf of the respondent and files his vakalatnama in Court which is taken on record.

Learned counsel for the petitioner states that though the cheque amount is 40,000/-, however, in order to discharge his liability and settle the dispute, the petitioner is ready to pay a consolidated amount of Rs.60,000/- to the respondent.

Learned counsel for the respondent, on instructions from Dharam Pal Goyal, who is holding power of attorney of the Devinder Pal Goyal, respondent, accepts this offer and states that the complainant will accept the aforesaid consolidated amount of Rs.60,000/-.

*In order to show his bona fide, learned counsel for the petitioner has handed over an amount of Rs.30,000/- to learned counsel for the respondent and prays for more time to pay the remaining outstanding amount. He further submitted that the petitioner is ready to deposit the compounding fee in view of judgment of Hon’ble the Supreme Court in **Damodar S. Prabhu versus Sayed Babalal H. 2010 (2) RCR(Criminal) 851**, however, since the petitioner is a*

poor person, the same be reduced from 15% to 5%. He submitted that the petitioner has even arranged the aforesaid amount of Rs.30,000/- from his brother-in-law.

Accordingly, the petitioner is directed to deposit 5% of the cheque amount, as compounding fee with the Punjab State Legal Services Authority before the next date of hearing.

Adjourned to 14.7.2016.

In the meantime, the sentence of the petitioner is suspended, subject to furnishing of his bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Patiala.”

In view of the above, it is apparent that the matter has been finally settled and the liability is discharged. The petitioner has also deposited 5% of the cheque amount with the Punjab State Legal Services Authority, Chandigarh vide receipt No. 921098 dated 13.07.2016 in compliance of aforementioned order dated 12.04.2016, necessary permission to compound the offence under Section 138 of Negotiable Instrument Act is granted and the present revision petition is allowed.

Consequently, the impugned judgment of conviction and order of sentence dated 06.01.2015 passed by Presiding Officer, Evening Court, Rajpura and affirmed by learned appellate Court vide judgment dated 12.08.2015 are set aside and the petitioner is acquitted of the charge levelled against him.

July 14, 2016
Anjal

(HARI PAL VERMA)
JUDGE