

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

CRR No. 1616 of 2016 (O&M)

Date of decision: 10.11.2016

Rajesh Bawa

...Petitioner

Versus

Rahul Majithia

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Tarunveer Vashisht, Advocate for the petitioner.

Mr. L.S. Mann, Advocate for

Ms. Sukhpreet Kaur, Advocate for the respondent.

Jitendra Chauhan, J. (Oral)

By filing the present criminal revision, the petitioner has assailed the judgment dated 06.04.2016, vide which, the learned Addl. Sessions Judge, Patiala, upheld the judgment dated 23.08.2014, passed by learned Judicial Magistrate 1st Class, Rajpura, whereby, the petitioner was convicted under Section 138 of Negotiable Instruments Act (for short 'the Act') and sentenced to undergo SI for a period of two years and pay fine of ₹1000/-, in default of payment of fine further undergo SI for a period of one month.

In compliance of the previous order dated 08.11.2016, the petitioner has deposited the compounding fee to the extent of 15% i.e. ₹55,500/- with the Punjab State Legal Services Authority, on 10.11.2016 and placed on record the photocopy of receipt, which is taken on record as Mark 'A'.

Heard.

In **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663**, the Full Bench of Hon'ble the Supreme Court has issued the following guidelines in cheque bouncing cases:-

THE 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.

In this case, the entire disputed amount has been paid to the respondent. The compounding fee of ₹55,500/- has already been deposited with the Punjab State Legal Services Authority. Mr. L.S. Mann, Advocate for Ms. Sukhpreet Kaur, Advocate, counsel for the respondent admits that the amount in question has been paid to the complainant and the respondent has no objection if this revision is allowed.

In view of the above, this Court feels that no purpose will be achieved in keeping the proceedings alive. Accordingly, the present revision is allowed on the basis of the compromise and the judgments of conviction and order of sentence of the appellate court as well as the trial Court are set aside. The petitioner is already on bail. The petitioner is acquitted of the charge on the basis of compromise.

10.11.2016

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No