

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 229

**Criminal Revision No.1724 of 2016 (O & M)**

**Date of Decision: May 20, 2016**

Neeraj Malhotra

..... PETITIONER

*VERSUS*

Sanjiv Kumar and another

..... RESPONDENTS

...

CORAM:        HON'BLE MR. JUSTICE JASPAL SINGH

...

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

...

**PRESENT:** -    Mr. Om Pal Sharma, Advocate, for the petitioner.

Mr. M.S. Rana, Advocate, for respondent No.1.

Mr. J.S. Sekhon, Assistant Advocate General, Punjab.

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**Jaspal Singh, J**

1.                The instant revision has been preferred by Neeraj Malhotra challenging judgments/Order(s) dated July 28, 2015 passed by the Judicial Magistrate Ist Class, Ludhiana, in complaint case under Section 138 of Negotiable Instruments Act, 1881, Police Station Division No.3, Ludhiana as well as judgment dated April 11, 2016 passed by learned Additional Sessions Judge, Ludhiana. Vide judgment/order dated July 28, 2015, he was convicted and sentenced as under:-

| Name of Accused | U/s        | RI                | Fine (₹ ) | In default (SI) |
|-----------------|------------|-------------------|-----------|-----------------|
| Neeraj Malhotra | 138 NI Act | One & a half year | 4,000/-   | One Month       |

Dis-satisfied with the aforesaid judgment/order, the accused – petitioner preferred an appeal which was also dismissed vide judgment dated April 11, 2016 passed by the lower appellate court. Aggrieved from the judgment passed by both the courts below petitioner filed this revision petition.

2. While issuing notice of motion on May 06, 2016, this Court passed the following order:-

“Notice of motion.

At the asking of Court, Mr. Varun Sharma, AAG, Punjab accepts notice on behalf of respondent No.2-State of Punjab whereas, Mr. M.S. Rana, Advocate has put in appearance on behalf of respondent No.1. Copies of the petition be supplied to learned State counsel as well as to the counsel for respondent No.1, during the course of day.

Service is complete.

List on 20.05.2016.

Meanwhile, parties are directed to appear before learned Chief Judicial Magistrate, Ludhiana on 13.05.2016 to get their statements recorded with regard to the genuineness of compromise, who shall submit its report by the adjourned date.

Superintendent, Central Jail, Ludhiana is directed to produce the petitioner/accused to enable him to make his statement in the Court on the date fixed.

Copy of this order be given under the signatures of Court Secretary of this Bench.”

3. Report of learned trial Court has been received, wherein, it has been categorically observed that the matter has been compromised between the parties with their free consent, voluntarily, without any pressure, threat, coercion and the same appears to be genuine. Even otherwise, matter involved in these proceedings is personal in nature, which has been amicably put at rest.

4. Learned counsel for the respondent No.1 as well as State counsel does not dispute the factual position as stated above and on the basis of report of learned trial Court have submitted that parties have genuinely patched up the matter and have sunk their differences or ill-will.

5. After having elaborately heard learned counsel for the parties and perusal of record as well as report submitted by learned trial Court in respect of compromise, this Court is satisfied that a compromise has been arrived at between the parties and after compromise no dispute subsists between the parties.

6. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and upheld by the lower appellate court. Apart from the fact that petitioner is facing the agony of protracted trial since 2012 and is poor person. However, there appears to be a substance in the submissions of learned counsel for the petitioner that petitioner is first offender and he is the sole bread winner of the family.

7. Moreover, parties to the *lis* have buried their hatchet though at a penultimate stage i.e. appellate stage. In case compromise is accepted, it would certainly create harmonious relationship in between the parties and would result into removal of bitterness or ill-will existing between the parties since long. Thus, this Court is of the view that once a matter has been compromised by the parties, no useful purpose would be served by continuing the proceedings and to decide the matter on merits. Rather it would be nothing but an abuse of process of law as well as the wastage of time of the Court as well as the parties. This court is also of the considered view that a chance be given to the petitioner to reform & improve himself; to become a good citizen/person; and to lead a peaceful & harmonious life.

8. Taking into consideration the aforesaid aspects of the case, though, conviction of the petitioner is upheld but the sentence imposed upon him by the courts below is reduced to the period already undergone by him, with no change in fine clause. Petitioner namely Neeraj Malhotra be released forthwith if his custody is not required in any other case.

9. With the above modification in sentence, revision petition stands dismissed.

**May 20, 2016**  
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**(Jaspal Singh)**  
**Judge**