

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

CRR-294 of 2015 (O&M)

Date of decision: February 17, 2016

Mayank Goel

...Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Amit Kumar Jain, Advocate, for the petitioner.

Dr. Sushil Gautam, DAG, Haryana.

Mr. Brijender Kaushik, Advocate 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 one year and to pay a fine of Rs.2000/-. However, in appeal, conviction was upheld by the appellate court, but sentence was modified by reducing it to a period of four months and to a fine of Rs.7.00 lacs (cheque amount).

A complaint was filed by the complainant-respondent No.2 against the petitioner on the allegations that the petitioner issued a cheque bearing No.139444 dated 21.05.2007 for Rs.7.00 lacs in favour of the respondent No.2. However, the said cheque was dishonoured with the remarks “*Insufficient funds*”. Trial ensued. The petitioner was convicted by the court of Sub Divisional Judicial Magistrate, Naraingarh. In appeal, conviction was upheld by the appellate court.

However, sentence was modified by reducing it to a period of four months and to a fine of Rs.7.00 lacs (cheque amount).

On August 03, 2015, vide CRM-24058-2015, compromise was placed on record. Today, learned counsel for respondent No.2/complainant has put in appearance. According to him, a compromise has been arrived at between the petitioner and the respondent No.2. The factum of compromise is not disputed by him. He submits that he has instructions to state that respondent No.2/complainant would have no objection in case this petition is allowed.

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

February 17, 2016
'Rajpal'

Referred to the reporter? **Yes**