

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3605 of 2015
Date of Decision: May 05, 2016

Jaswinder Pal ...Petitioner

Versus

Gurcharan Kaur ...Respondent

CRR No.3589 of 2015

Jaswinder Pal ...Petitioner

Versus

Gurcharan Kaur ...Respondent

CRR No.3604 of 2015

Jaswindser Pal ...Petitioner

Versus

Gurcharan Kaur ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. APS Sandhu, Advocate
for the petitioners (in all the three petitions).

Mr. Athar Ahmed, Advocate
for the respondents (in all the three petitions).

FATEH DEEP SINGH, J.

The above detailed three criminal revision petitions
preferred under Section 401 Cr.P.C though, are assailing the initial

findings through judgment dated 20.10.2014 of learned Judicial Magistrate 1st class, Amritsar and subsequent upholding of the same by the learned Additional Sessions Judge, Amritsar by way of first appeal through judgment dated 15.9.2015, though, have been passed in separate criminal complaint cases bearing Nos.22196 of 2011, 26100 of 2011 and 2589 of 2011 which are between the same set of parties and, therefore, for the sake of brevity are taken up and decided together as the common question of law and facts are involved.

Heard learned counsel for the parties. Complainant Gurcharan Kaur/present respondent alleged in her complaint under Section 138 of the Negotiable Instrument Act (for short, 'the Act') that as a consequence of agreements dated 7.5.2007 and 23.3.2011 the revisionist, then accused had undertaken to maintain the complainant as well as to solemnise the marriage of a daughter and in acknowledgement of these agreements had issued post dated cheques No.337322 dated 25.4.2011, No.337323 dated 25.5.2011 and No.337324 dated 15.7.2011 for sum of ₹3 lacs each drawn on State Bank of India, Batala Road, Amritsar. The complainant claims that on the basis of assurance and representation she presented the cheques to the banker which stood dishonoured on account of insufficiency of funds leading to the issuance of legal notice by her and after requisite period the complaint was filed against the accused.

The complainant after summoning, examined herself as CW1 by way of her affidavit Ex.CW1/A and proved documents Ex.C1 to Ex.C6 and, thereafter, closed her evidence. The accused denied the allegations in his stand and claimed that he has been falsely implicated and examined himself as DW1 by way of his affidavit Ex.DW1/A and proved documents Ex.D1 to Ex.D3. Consequent upon the arguments, impugned findings were returned, whereby, the trial Court held the

accused guilty for commission of offence under Section 138 of the Act and was sentenced to undergo rigorous imprisonment for 03 years and to pay a fine of ₹3,00,000/- in each complaint case which findings were assailed before the learned first Appellate Court which dismissed his appeal vide judgment dated 15.9.2015. That is how, the instant revision petitions have been preferred by the convict-revisionist.

During the course of events, the parties have compromised the dispute on the basis of settlement (Annexure A/6) whereby, the revisionist-convict has undertaken to pay a sum of ₹20.00 lacs to the complainant out of which the complainant had received a sum of ₹10.50 lacs before the Court of learned Judicial Magistrate 1st Class, Amritsar and out of the balance amount of ₹9.50 lacs the complainant/respondent in this Court has received two demand drafts bearing Nos. 465762 and 705127 both dated 28.03.2016 worth ₹2.00 lacs and ₹3.00 lacs respectively. The parties have further undertaken that a sum of ₹4.50 lacs already deposited in the Registry of this Court would be withdrawn by the complainant/Gurcharan Kaur which is also reflected in their settlement Annexure A/6.

The complainant Gurcharan Kaur has made statement on oath before this Court on 27.4.2016 which has been duly admitted by the revisionist-convict/Jaswinder Pal in his statement before this Court on that very day, whereby, the parties themselves have taken stand that they would be bound by this settlement. The complainant had shown concurrence to compound all the offences for which the petitioner has been convicted. Keeping in view that the petitioner has been convicted for commission of offence under Section 138 of the Act and which is a compoundable offence and even after the conviction such an offence can be allowed to be compounded for which reliance has been placed on **(2000) 1 SCC 763 Texmaco Ltd and**

another. vs. State of A.P and another.

Keeping in view that the parties have settled their dispute mutually and which would go a long way to sort out the differences between them in which this Court should not be an impediment, therefore, parties are allowed to compound the offences. Thus, the revision petitions stand allowed and judgement of conviction dated 20.10.2014 passed by the learned Judicial Magistrate 1st Class, Amritsar and judgment dated 15.9.2015 passed by learned Additional Sessions Judge, Amritsar are hereby set aside.

**(FATEH DEEP SINGH)
JUDGE**

May 05, 2016
aarti