

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3444 of 2016 (O&M)
DECIDED ON: DECEMBER 07, 2016

SURJIT SINGH

... PETITIONER

VERSUS

SAURAV NAGORI

... RESPONDENT

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kamal Narula, Advocate
for the petitioner.

None for the respondent.

JASPAL SINGH.J (ORAL)

Challenge in this revision petition is to the judgment dated August 22, 2016 passed by learned Additional Sessions Judge, Fazilka whereby judgment of conviction and order of sentence dated June 06, 2015 passed by learned Judicial Magistrate Ist Class, Abohar was upheld vide which petitioner has been convicted under Section 138 of Negotiable Instruments Act (for short "Act") and sentenced to undergo RI for a period of six months; besides to pay fine to the tune of ₹2000/- and in default thereof, to further undergo imprisonment for a period of one month.

2. Briefly stated, facts giving rise to the instant *lis* are that the petitioner approached the respondent and opened a current and running account and also promised to pay interest @ 24% per annum. Petitioner also promised to sell his crops or agriculture produce through complainant's firm and has borrowed ₹98,500/- on January 03, 2014.

Petitioner had issued a cheque amount to ₹98,000/- on May 01, 2014 in order to discharge his legally enforceable liability. The said cheque on its presentation before bank for encashment was dishonoured and returned back with remarks “insufficient funds”.

3. After hearing learned counsel for the parties and perusing the record, learned trial Court convicted accused-petitioner under Section 138 of the Act and sentenced to the period fully reflected in para 1 of this judgment.

4. Aggrieved against judgment of conviction and order of sentence dated June 06, 2015 passed by JMIC, Abohar, petitioner preferred an appeal before learned Additional Sessions Judge, Fazilka, which was also dismissed on August 08, 2016. Hence, the present petition.

5. During the pendency of instant revision petition, the parties amicably settled their dispute, which was reduced into writing on September 16, 2016. The factum of compromise as well as its genuineness was got verified from the learned Magistrate, who has submitted his detailed report including the statements of parties i.e. complainant as well as petitioner. He has categorically stated that the compromise arrived at in between the parties appears to be without any inducement or influence either on the parties in arriving at the compromise which, otherwise, appears to be voluntary, genuine and the result of without any coercion or undue influence.

6. Learned counsel for the petitioner has submitted that since compromise has arrived at between the parties and the matter has been settled finally with the intervention of respectables, the liability stood

discharged. Moreover, the complainant while recording his statement stated that he has no objection, if the instant revision petition is accepted and the petitioner is acquitted of the charge.

7. Since there remains no dispute between the parties after amicable settlement and discharge of liability, this Court is left with no other option but to allow the petition. Resultantly, instant revision petition is accepted and orders of conviction and sentence passed by the Courts below are set-aside. Petitioner has been acquitted of the charge framed against him on the basis of compromise. He has been ordered to be set at liberty forthwith if not required in any other case.

8. Moreover, petitioner has already deposited 15% of the cheque amount in view of the judgment rendered in **Damodar S. Prabhu vs. Sayed Babalal H; 2010(2) RCR (Crl.) 851.**

CRM No. 29712 of 2016

In view of order passed in the main revision petition, instant application has been rendered infructuous and as such the same is dismissed.

DECEMBER 07, 2016

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**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*