

CR No. 4690 of 2015 (O&M)

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

CRM No. 15942 of 2016 in/and

CRR No. 4690 of 2015 (O&M)

Date of Decision: 10.08.2016

Subhash Kumar

... Petitioner

VS.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Subhash Kumar, revisionist-applicant in person,
with Mr. Karan Singh, Advocate.

Mr. Gaurav Goel, AAG, Haryana.

Mr. Narinder Kumar, complainant-respondent No. 2 in person,
with Mr. G.C. Shahpuri, Advocate.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

KULDIP SINGH (J.)

This is an application for recalling of order dated 09.02.2016 passed by this Court in CRR No. 4690 of 2015, vide which criminal revision petition filed by Subhash Kumar present applicant-revisionist was dismissed.

The applicant-appellant was convicted by the trial Court under Section 138 of the Negotiable Instruments Act, 1881 on the ground that the cheque amounting ₹ 10.00 lacs issued by him had bounced and he was accordingly sentenced. The appeal filed by him before the appellate Court was dismissed. When the revision was filed before this Court, the counsel for the revisionist suddenly stopped appearing. Consequently, this Court considered the matter and vide order dated 09.02.2016 dismissed the revision on the ground that there is no ground to condone the delay of 262 days in filing the revision.

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Now, the present application has been filed stating that the parties have now compromised the matter and prayer for recalling the said order has been made. The compromise dated 02.05.2016 (*Annexure P-1*) has been placed on file. Both the complainant-respondent and revisionist-accused has affirmed the correctness of said compromise and stated that the amount of the cheque has been paid in terms of the said compromise.

In view of fact that the matter has been compromised, the order dated 09.02.2016 passed in CRR No. 4690 of 2015 is recalled and the criminal revision petition is accordingly restored and taken on board today for hearing.

CRM-39566-2015

The present application filed under Section 5 of Limitation Act has been filed for condonation of delay of 262days in filing the present criminal revision.

For the reasons enumerated in the application, the same is allowed. Delay of 262 days in filing the present criminal revision is hereby condoned subject to all just exceptions.

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I have heard learned counsel for the parties.

Learned counsel for the parties have relied upon the authority of the Apex Court passed in the matter **K. Subramanian Vs. R. Rajathi; 2010 (15) SCC 352**, vide which in similar circumstances, the Apex Court has reviewed its order and in view of the compromise, set aside the conviction.

Therefore, applying the ratio of the said authority and in view of the compromise, the present criminal revision petition is allowed. The judgement dated 11.12.2014 passed by the learend Additional District &

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Sessiond Judge, Yamuna Nagar, Jagadhri dismissing the appeal as well as the judgment of conviction and grant of sentence dated 28-29.04.2014 passed by the Judicial Magistrate Ist Class, Yamuna Nagar, Jagadhri are hereby set aside and the present revisionist-accused stands acquitted of the notice of acquisition served upon him.

Before parting with the judgment, it is observed that the present criminal complaint was virtually tried as an execution of the recovery of the amount of the cheque issued by the revisionist-accused. The revisionist-accused had unsuccessfully contested before the two Courts below and now having failed in all the Courts, he offered for effecting compromise. In this way, he wasted the time of this Court as well as the Courts below.

In the circumstances, the counsel for the revisionist-accused had offered that the applicant is ready to pay a sum of ₹ 20,000/- towards the legal aid fund so that the same can be utilized for grant of legal aid to the needy persons.

Accordingly, the revisionist is order to pay a sum of ₹20,000/- to be deposited with the High Court Legal Services Committee within 15 days and place the receipt of the same on the file.

In view of above, the present criminal revision stands allowed.

August 10, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No