

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4767-2015 (O & M)
Date of decision:27.01.2016

Irfan

...Petitioner(s)

Versus

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Kunal Dawar, Advocate,
for the petitioner(s).

Mr. Arun Luthra, AAG, Haryana.

Mr. Ram Bilas Gupta, 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 six months and to pay a compensation of ₹60,000/- to defray the amount of cheque and other expenses undertaken by the complainant to prosecute him.

A complaint was filed by the complainant-respondent No.2 against the petitioner on the allegations that the petitioner took a friendly loan of ₹50,000/- from the complainant. In lieu of same, he issued a cheque bearing No.001739 dated 25.06.2012 for a sum of ₹ 50,000/-, in favour of respondent No.2. However, the said cheque was dishonoured with the remarks “Funds Insufficient”. On a complaint being filed, trial ensued. Petitioner was convicted by the court of Judicial Magistrate Ist Class, Faridabad. Same was upheld by the appellate court.

Learned *counsel* for the complainant submits that complainant/respondent No.2 is present in court and is duly identified by him. Learned counsel has placed on record affidavit of the Richhpal, respondent No.2, wherein it has been stated that he has no objection if the revision petition is disposed off subject to release the amount of ₹ 1,10,000/- which is lying deposited with the Chief Judicial Magistrate/Duty Magistrate, pursuant to order dated 10.12.2015 passed by this court. He does not want to proceed against the accused/petitioner and has no objection if the present petition is allowed. Same is taken on record.

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 they were convicted and sentenced. Aforesaid amount ₹ 1,10,000/- be released to the complainant within two weeks from today.

The revision petition is thus allowed in the aforesaid terms.

(RAJAN GUPTA)
JUDGE

27.01.2016

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