IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-5025-2015 (O&M)
Date of Decision: January 08, 2016

Dinesh Bhardwaj

.....Petitioner

Versus

Vijay Vamini

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Ashok Kaushik, Advocate
for the petitioner.

Mr.Vikram Singh, Advocate
for the respondent.

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NARESH KUMAR SANGHI, J.(ORAL)

On the oral request of learned counsel for the petitioner, State of Haryana is directed to be impleaded as respondent No.2.

Necessary correction in this regard be carried out by the Office of this Court.

Notice of motion to respondent No.2.

At the asking of the Court, Mr.Sanjay Kumar Saini,

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Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of the State of Haryana. A complete copy of the paper-book has been supplied to him today in the Court-room itself.

Challenge in the present criminal revision petition is to the judgment, dated 30.11.2015, passed by learned Additional Sessions Judge, Faridabad, whereby appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as the `N.I.Act'), recorded by learned Judicial Magistrate First Class, Faridabad, was dismissed.

When the criminal revision petition came up for preliminary hearing before this Court on 24.12.2015, notice of motion was issued with regard to quantum of sentence only. As a sequel thereto Mr.Vikram Singh, Advocate, has put in appearance for respondent No.1 whereas Mr.Sanjay Kumar Saini, AAG, Haryana, for the State, i.e. respondent No.2. All the counsels representing the parties are *ad idem* that in view of the compromise so effected between the parties, the present criminal revision petition can be disposed of at this stage. All the counsels representing the respective parties are *ad idem* that in view of the compromise so effected between the parties the present criminal

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revision petition can be disposed of at this stage. They are further in unison that in view of the provisions contained in Section 147 of the N.I.Act, offence punishable under Section 138 of the N.I.Act is compoundable and if the Court permits the parties to compound the offence, then the accused can be acquitted of the charge levelled against him.

After hearing the learned counsel for the parties, statement on oath of Vijay Vermani, respondent No.1-complainant, was recorded separately in which he admitted the factum of compromise with the petitioner and deposed that he had no objection if the petitioner was acquitted of the charge levelled against him on the basis of compromise. He further fairly admitted that a sum of ₹2,80,000/- (Rupees two lacs and eighty thousand only) was received by him from the petitioner side.

Since the offence punishable under Section 138 of the N.I.Act is compoundable as per provisions contained in Section 147 of the N.I.Act, therefore, this Court permits the party to compound the offence. It is settled law that the Court can permit the parties to effect a compromise in a compoundable offence even at the stage of pendency of the revision petition.

After perusing the statement suffered by proprietor of respondent No.1, it is crystal clear that a valid compromise has

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been effected between the private parties to the present petition. The cheque was issued as a friendly loan and now the private parties have resolved their dispute, therefore, despite the fact that notice was issued with a very limited purpose of consideration of sentence only, this Court finds that the said order can be modified and the revision petition can be decided on merits taking into consideration the compromise. Hence, the judgments passed by both the Courts below holding the petitioner guilty for the offence punishable under Section 138 of the N.I.Act and order of sentence to undergo RI for one year besides payment of compensation of ₹3,50,000/- (Rupees three lacs and fifty thousand only) and in default thereof to undergo further simple imprisonment of three months are set aside and the petitioner, Dinesh Bhardwaj s/o Shri Amar Chand Bhardwaj, resident of House No.681, near Public School, Pehlwan Chahkki, Chawla Colony, Ballabgarh, District Faridabad, is acquitted of the charge levelled against him.

Since the petitioner is in custody, therefore, he be set at liberty at once, if not required in any other case.

Disposed of.

January 08, 2016 **(NARESH KUMAR SANGHI)**
meenu **JUDGE**

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