

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-556-2015 (O & M)

Date of decision:08.01.2016

Rajiv Mehra and another

...Petitioner(s)

Versus

Inder Kumar Arora and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. B.D. Sharma, Advocate,
for the petitioner(s).

Mr. G.S. Bhatia, Advocate,
for respondent No.1.

Mr. Shilesh Gupta, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

This is a revision petition against the conviction of the accused-petitioners under Section 138 of the Negotiable Instruments Act (hereinafter referred to be as “the Act”). The petitioners have been sentenced to undergo rigorous imprisonment for two years and to pay a compensation of ₹2000/- each 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.1 against the petitioners on the allegations that the petitioners took a friendly loan of ₹2,00,000/- from the complainant. In lieu of same, they issued three cheques bearing No.091597, 108941 and 105576 dated 18.06.2004, 05.05.2004 and 14.06.2004 for a sum of ₹ 50,000/-, ₹ 50,000/- and ₹ 100,000/- respectively in favour of respondent No.1. However, the said cheques were dishonoured with the remarks “Exceed Arrangement”. On a complaint being filed, trial

ensued. Petitioners were convicted by the court of Judicial Magistrate Ist Class, Amritsar. Same was upheld by the appellate court.

Learned counsel for the complainant submits that balance payment in terms of the agreement arrived at between the parties before the Mediation and Conciliation Centre of this court has been received. According to him, complainant is present in court, who is duly identified by him. Now the complainant has no objection if the present petition is disposed of in favour of the petitioners. Settlement between the parties has been reduced into writing before Mediation and Conciliation Centre. Same is 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 petitioners for offence punishable under Section 138 of the Act is hereby set-aside and the petitioners are acquitted of the offence for which they were convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

08.01.2016
sukhpreet

(RAJAN GUPTA)
JUDGE