

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

CRR-44 of 2016 (O&M)

Date of Decision: February 02, 2016.

Rajesh Kumar Palta

....Petitioner

Versus

Krishan Lal

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Neeraj Madaan, Advocate
for the petitioner.

Mr.B.S.Bhalla, Advocate
for the respondent/complainant.

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 two months.

A complaint was filed by the complainant-respondent against the petitioner on the allegation that petitioner took a friendly loan of Rs.35,000/- from him with the promise to return the same shortly. In order to discharge his liability, he issued a cheque bearing No.062516 dated 1.2.2013 for Rs.35,000/- in favour of the respondent. The cheque was presented for collection but was returned vide memo dated 13.2.2013 with the remarks “Exceeds arrangement”. Thereafter notice envisaged by the Act was served upon the petitioner. On his failure to pay the amount in question, complaint under Section 138 of the Act was instituted. On a complaint being filed, trial ensued. Petitioner was convicted by the court

of Chief Judicial Magistrate, Moga. Same was upheld by the appellate court.

Learned counsel for the complainant submits that complainant/respondent is present in court and is duly identified by him. He has placed on record affidavit of Krishan Lal-respondent, wherein it has been stated that he has no objection if the revision petition is disposed of as he has received the entire cheque amount as full and final payment from the petitioner. He does not want to proceed against the accused/petitioner.

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 Vs. State of Punjab and another, 2009 (3) R.C.R (Criminal) 61**, 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 he was convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

(Rajan Gupta)
Judge

February 02, 2016.
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