

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-443-2016 (O & M)
Date of decision:09.05.2016

Sunil Sabarwal ...Petitioner(s)

Versus

Manmohan Singh and anr. ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jatinder Singh, Advocate,
for the petitioner(s).

Mr. Prabhjot Singh, 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-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 one year and to pay a fine of ₹5000/- and in default of payment of fine, to undergo further rigorous imprisonment for one month.

A complaint was filed by the complainant-respondent No.1 against the petitioner on the allegations that the petitioner issued a cheque bearing No.782867 dated 05.10.2011 for a sum of ₹3,00,000/- drawn on State Bank of India, Faridkot, in favour of the complainant-respondent No.1. However, the said cheque was dishonoured with the remarks “Insufficient Funds”. A trial ensued. The petitioner was convicted by the court of

Judicial Magistrate 1st Class, Faridkot, and conviction was upheld by the appellate court.

Today, complainant is present in court. He is duly identified by his counsel. Affidavit of the complainant has been filed in court today. Same is taken on record. According to the same, the matter has been compromised between the parties and the complainant has received a sum of Rs.1,50,000/- regarding the cheque in question and he has no objection if the petitioner is acquitted in this case.

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 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 he was convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

09.05.2016
sukhpreet

(RAJAN GUPTA)
JUDGE