

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

CRR No.498 of 2016 (O&M).
Decided on:-18.05.2016.

Jagga Singh.

.....Petitioner.

Versus

M/s Arjun Credit & Investments (Pvt.) Limited.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. D.S. Malwai, Advocate
for the petitioner.

None for the respondent.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition against the judgment dated 19.1.2016 passed by learned Additional Sessions Judge, Sangrur whereby his appeal filed against the judgment of conviction and order of sentence both dated 16.4.2013 passed by learned Sub-Divisional Judicial Magistrate, Sunam was dismissed.

Briefly stated, the facts of the case are that the respondent-complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) alleging therein that the petitioner-accused in discharge of his legal liability issued a cheque bearing No.982983

dated 17.6.2010 in the sum of ₹ 1,80,0,000/- drawn on Oriental Bank of Commerce, Branch Patran in favour of the respondent-complainant. However, on presentation, the said cheque was dishonoured by the bank and was returned to the complainant along with memo with the remarks “Insufficient Funds”. Thereafter, legal notice was issued by the respondent-complainant to the petitioner-accused but the petitioner failed to make the payment. As such, the complaint was filed against him.

Learned Magistrate vide judgment dated 16.4.2013 convicted the petitioner for offence punishable under Section 138 of the Act and vide separate order of even date, sentenced him to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo RI for one month.

Feeling aggrieved, the petitioner filed an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Sangrur vide judgment dated 19.1.2016.

It is in these circumstances, the present revision petition has been filed by the petitioner-accused.

Learned counsel for the petitioner has contended that during pendency of the present petition, the petitioner has settled the matter and made the payment of cheque amount to the respondent-complainant.

Learned counsel for the petitioner-accused further submits that in compliance of order dated 4.4.2016 passed by this Court in CRM-10236

of 2016, the petitioner has deposited the compounding fee of ₹ 9,000/- by way of a demand draft with the Punjab Legal Services Authority, Chandigarh. In this regard, he has also placed on record copy of the receipt No.921077 dated 3.5.2016 issued by the Member Secretary, Punjab Legal Services Authority, Chandigarh as well as copy of demand draft of Rs.9,000/-.

Learned counsel for the petitioner also contends that in view of settlement between the parties, permission to compound the offence may also be granted and the petitioner may be acquitted of the charges framed against him.

Though none has put in appearance on behalf of the respondent-complainant today in the Court, but perusal of the order dated 4.4.2016 passed in CRM-10236 of 2016 reveals that Mr. Narinder Singh, Advocate had put in appearance on that day on behalf of the respondent and filed power of attorney on his behalf. He also stated that he had no objection in case the complaint is quashed and submitted an affidavit accepting the correctness of compromise (Annexure P-1).

I have heard learned counsel for the petitioner.

The order dated 4.4.2016 passed by this Court in CRM-10236 of 2016 is reproduced as under:

“Learned counsel for the applicant-petitioner contends that the petitioner has already paid whole of the cheque amount

to the respondent.

Mr. Narinder Singh, Advocate has put in appearance on behalf of respondent and filed power of attorney on his behalf. Same is taken on record.

Learned counsel for the respondent on instructions from the respondent-complainant, who is present in Court today, does not dispute the aforesaid fact rather categorically states that he has no objection in case the complaint is quashed. He has submitted an affidavit accepting the correctness of compromise (Annexure P-1).

*Learned counsel for the petitioner states that in order to meet the requirements of the law in case **Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (2) RCR (CrL) 851**, he be permitted to deposit the compounding fee/penalty. However, he submits that the petitioner is a poor man. Therefore, the compounding fee be waived off or reduced. The petitioner is hardly in a position to make both ends meet.*

I have heard learned counsel for the parties.

Father of the petitioner is present in the Court and this Court has noticed his presence and cannot ignore the submissions as made by learned counsel for the petitioner.

Accordingly, the compounding fee/penalty amount, which is otherwise 15%, is reduced to 5%. The petitioner is directed to deposit the same with the Punjab State Legal Services Authority within one month from today.

Meanwhile, the sentence awarded to the applicant-petitioner is suspended during the pendency of the present revision petition subject to his furnishing bail bonds/surety bonds to the satisfaction of the learned Chief Judicial

Magistrate, Sangrur.

The criminal miscellaneous is disposed of.”

In view of the above, it is apparent that the matter has been finally settled and the liability is discharged. The petitioner has also deposited 5% of the cheque amount with the Punjab State Legal Services Authority, Chandigarh in compliance of aforementioned order dated 4.4.2016, necessary permission to compound the offence under Section 138 of the Act is granted and the present revision petition is allowed.

Consequently, the impugned judgment of conviction and order of sentence dated 16.4.2013 passed by learned Magistrate and affirmed by learned appellate Court vide judgment dated 19.1.2016 are set aside and the petitioner is acquitted of the charge levelled against him.

May 18, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE