

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of hearing and Order : 25th April 2016

+ CRL.REV.P. 25/2015

RAMAN VOHRA

..... Petitioner

Through: Mr.R.K.Yadav, Advocate

versus

STATE (GOVT OF NCT OF DELHI) & ANR

..... Respondent

Through: Ms.Meenakshi Chauhan, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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P.S. TEJI, J. (Oral)

1. By the present petition filed under Section 397/401 Cr.P.C., the petitioner seeks to challenge the order dated 08.01.2015 passed by the Appellate Court affirming the Judgment dated 08.09.2014 and order on sentence dated 22.09.2014 passed by the Trial Court.

2. In a nutshell, the brief facts of the case are that the petitioner had requested respondent No.2 for a friendly loan of Rs.8 lacs in the month of May-June 2010 but the respondent No.2/Complainant advanced an amount of Rs.7 lakh with the assurance from the petitioner that the same would be returned in the month of November to December, 2010. Thereafter, in return of the loan amount, the complainant/respondent No.2 issued four cheques bearing No.262779, 262780 both dated 31.12.2010 in the sum of Rs. 2 lacs each and

cheques bearing No.279051 and 279052 both dated 01.01.2011 for a sum of Rs.2 lacs and 1 lac respectively which were all returned unpaid for the reasons 'payments stopped' and 'insufficient funds'. Thereafter, the complainant issued a legal demand notice dated 10.02.2010 asking the complainant to pay the cheque amount within 15 days from receipt of notice. However, the same was not paid and the present complaint under Section 138 of N.I. Act was filed by the complainant on 18.03.2011. Notice under Section 251 of Cr. P.C. was issued to the petitioner. Trial commenced, evidence was led by both the sides and ultimately the trial of the case concluded in conviction of the petitioner. The petitioner also challenged the judgment and order on sentence before the learned Additional Sessions Judge, by way of appeal, which was also dismissed vide order dated 08.01.2015. Hence, the petitioner has preferred the present revision petition.

3. At the outset, learned counsel for the petitioner does not challenge the orders passed by the Trial Court as well as Appellate Court on merit. It is contended that the petitioner has settled the matter with complainant/respondent No. 2 and as per the settlement, the complainant has agreed to compound the offence against the petitioner, in lieu of the payment of the settlement amount.

4. Learned counsel for the petitioner further contended that the offence for which the petitioner has been convicted is a compoundable offence and since the matter has been amicably settled between the parties and the complainant has also agreed to compound the offence

against the petitioner, therefore, learned counsel for the petitioner prayed for compounding of the offence.

5. Ms.Meenakshi Chauhan, Additional Public Prosecutor appears on behalf of the State and submits that there is no illegality or infirmity in the order passed by learned Metropolitan Magistrate as well as learned Additional Sessions Judge and the order/judgment passed by learned Additional Sessions Judge does not call for any interference from this Court.

6. I have heard learned counsel for the parties and have also gone through the impugned judgments and orders passed by learned Metropolitan Magistrate as well as learned Additional Sessions Judge.

7. After considering the submissions advanced by both the sides and upon perusal of the impugned orders, evidence on record and the decisions cited, this Court observes that the petitioner has been convicted for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, which is a compoundable offence. This Court also observes that both the petitioner and Complainant/respondent No. 2 have settled their disputes and the Complainant/respondent No. 2 has agreed to cooperate with the petitioner for compounding of the offence.

8. For compounding the offence under Section 138 of Negotiable Instruments Act, 1881, the Hon'ble Supreme Court in ***Damodar X. Prabhu v. Sayed Babalal H.***, (2010) 5 SCC 663, has framed the

guidelines, which read as under:

“THE GUIDELINES

- (I) *In the circumstances, it is proposed as follows:*
- a. *That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.*
 - b. *If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at the subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.*
 - c. *Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.*
 - d. *Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.”*

9. This Court has also perused the order sheet dated 06.04.2016, wherein it was submitted by learned counsel for the parties that the

matter has been settled and needs to be compounded. The learned counsel for the petitioner also sought permission of the Court to deposit the compounding charges @ 15% of the cheque amount with the Registrar General of this Court.

10. As the office report, an amount of Rs.1,40,000/- is stated to have been deposited with the Registry.

11. In view of the facts and circumstances; the fact that the parties to the dispute have settled their disputes by entering into a settlement; the fact that the petitioner has also deposited 15% of the compensation amount with the Registrar General of this Court, and apart from the aforesaid, the offence punishable under Section 138 of Negotiable Instruments Act, 1881 is a compoundable offence, this Court finds no impediment in compounding the offence under which the petitioner has been convicted and sentenced. Resultantly, the offence under Section 138 of Negotiable Instruments Act, 1881 under which the petitioner has been convicted and sentenced is compounded.

12. Consequently, the conviction order dated 08.09.2014 passed by the Trial Court and the order of the Appellate Court dated 08.01.2015 are hereby set aside and the petitioner is acquitted for the offence under Section 138 of the Negotiable Instruments Act, 1881.

13. The petitioner is on bail. His bail bond is cancelled and the sureties stand discharged.

14. The petition is disposed of in the aforesaid terms.

P.S.TEJI, J

APRIL 25, 2016

