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

Judgment delivered on: 27th January, 2016

+ **CRL.REV.P. 352/2015**

PAWAN KUMAR Petitioner

Represented by: Mr. Manawwar Naseem and
Mr. Akshit Gadhok, Advocates.

Versus

STATE (GNCT OF DELHI) & ANR Respondents

Represented by: Mr. Satya Narayan, Additional
Public Prosecutor for the State.
Mr. Puneet Bajaj and
Mr. Manjeet Dahiya, Advocates for
Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl M.A. No.18036/2015

1. Vide the present application, the petitioner and the respondent No.2 jointly submit that the parties have settled the matter vide settlement dated 16.11.2015, therefore, the petition noted above be allowed.

2. Keeping in view the averments made in the instant application and the submissions made by learned counsel for the parties, the instant application is allowed.

3. The application stands disposed of accordingly.

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4. Vide the present petition, the petitioner seeks setting aside of the impugned judgment and order dated 05.06.2015 passed by the Appellate

Court in Criminal Appeal No.01/2015 and the impugned judgment dated 28.11.2014 and order on sentence dated 04.12.2014 passed by the learned Metropolitan Magistrate in Complaint Case No.927/14.

5. Learned counsel appearing on behalf of the parties jointly state that the matter has been settled between the parties before the Mediation Centre, Saket Courts, New Delhi, on 16.11.2015 and now no dispute remains *inter se* them. Thus, the respondent No.2 has no objection if the present petition is allowed.

6. Admittedly, the aforesaid case was filed under Section 138 of the Negotiable Instruments Act, 1881 and petitioner has been convicted therein. Even appeal has been rejected by learned Appellate Court. During pendency of matter, both parties compounded the offence before Mediation Centre, Saket Courts, New Delhi on 16.11.2015, though the matter was pertaining to arbitration proceedings. Consequent to such settlement, both parties moved joint application for settlement.

7. In ***Damodar S.Prabhu v. Sayed Babalal H. : AIR 2010 SC 1907***, the parties before the Supreme Court arrived at a settlement during the pendency of the appeal before the said Court and sought compounding of the offence as contemplated under Section 147 of the N.I. Act. Pursuant to the said settlement, the appellant/accused also sought setting aside of his conviction on the basis of the settlement. The Supreme Court thereupon allowed the compounding of the offence and set aside the conviction of the appellant.

8. It is important to mention here that the Supreme Court has framed

following guidelines with respect to compounding of such offences under Section 138 NI Act at different stages:-

- “(a) xxx xxx xxx.
- (b) xxx xxx xxx
- (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) xxx xxx xxx.”

9. It was also clarified that any cost imposed in accordance with such guidelines should be deposited with Legal Services Authority operating at the level of the Court before which the compounding takes place. For instance, in case of compounding during the pendency of the proceedings before the High Court, the cost should be deposited with the State Legal Services Authority.

10. Keeping in view the dictum of the Supreme Court in ***Damodar S. Prabhu*** (*supra*) as well as the settlement arrived at between the parties, the petitioner is acquitted of the charge under Section 138 of the NI Act, subject to his depositing 15% of all the three cheques amount by way of costs with Delhi Legal Services Authority within a period of four weeks from today. Proof thereof shall be furnished by petitioner before learned Trial Court.

11. It is noted that the petitioner was enlarged on bail by this Court vide order dated 11.06.2015. Therefore, the petitioner is set free henceforth and his bail bond and surety bond stand discharged.

12. Keeping in view the settlement and no objection of the petitioner, a

sum of Rs.1,80,000/- deposited before the learned Trial Court shall be released in favour of the respondent No.2 on taking requisite steps. Needless to state that furnishing of the cost receipt with DLSA by petitioner, as indicated above, shall be a condition precedent for such release amount of Rs.1,80,000/- by learned Trial Court.

13. In above terms, the present petition is allowed.

14. LCR be remitted back forthwith.

15. A copy of this order be given *dasti* to the learned counsel for the parties.

**SURESH KAIT
(JUDGE)**

JANUARY 27, 2016

Sb/M/jg