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

**CRR No.2997of 2015 (O&M)
Date of Decision: 10.01.2017**

GURJIT SINGH

.....Petitioner

Vs

GURMEET SINGH AND ANR

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Kartik Gupta. Advocate
for the petitioner.

Mr. Narinder Singh, Advocate for
Mr. D.S. Malwai, Advocate
for respondent No.1.

Mr. Shilesh Gupta, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

CRM No.23788 of 2016.

Dismissed as having become infructuous.

CRR No.2997of 2015 (O&M)

[1]. Petitioner seeks permission to compound the offence in view of compromise dated 15.07.2016 executed between the parties, whereby both the parties have settled their dispute amicably and compromised the matter on the following conditions:-

1. That Gurmit Singh son of Surjit Singh has received all pending and outstanding dues towards the petitioner Gurjit Singh in cash in the presence of witnesses.
2. That Gurmit Singh shall be bound to get his statement recorded in the Court, if need be and he has no objection in case Gurjit Singh is acquitted or discharged by this Court in terms of compromise.
3. That no other case is pending between the parties, nor Gurmit Singh shall institute any other proceeding against the petitioner in the present context.

[2]. Both the parties are *ad idem* that the compromise has been executed between them without any pressure, coercion or undue influence from any side. The compromise has been witnessed by independent witnesses and the same would go in a long way to create peace and harmony between them.

[3]. Indulgence of the Court is being sought for compounding the offence in terms of Section 147 of the Negotiable Instruments Act, 1881 (for short 'the Act'). The offence relating to dishonour of cheque is having compensatory

profile and it should be given precedence over punitive mechanism. The offence is almost a civil wrong which has been clothed in criminal overtone, therefore, priority should be given to compensatory mechanism. Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore, 2011(2) RCR (Criminal) 298.**

[4]. Revisional jurisdiction of this Court in terms of Section 401 Cr.P.C. would result in bringing the ends of justice in favour of both the parties, in case compromise in question is accepted for the purposes of compounding the offence arising out of Section 138 of the Act. The compromise would definitely go in a long way to strengthen the mutual relations between the parties and would serve as everlasting tool in their favour. This exercise would be in consonance of spirit of Section 147 of the Act as well as the dictum laid down by the Hon'ble Apex Court in **Damodar S. Prabhu vs. Sayed Babalal H., AIR 2010 SC 1907.**

[5]. Learned State counsel has no objection to the aforesaid settlement between the parties.

[6]. In view of aforesaid, the impugned order dated 06.07.2015 passed by Additional Sessions Judge, Patiala and order dated 16.11.2013 passed by Judicial Magistrate Ist Class, Patiala under Section 138 of the Act are hereby set aside.

Revision petition is allowed, subject to deposit of 15% of the cheque amount as per ratio laid down in **Damodar S. Prabhu's** case (supra) before the State Legal Services Authority, failing which this order will be of no consequence.

January 10, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No