

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

CRR No. 2666 of 2016 (O&M)

Date of decision: 21.02.2017

Balbir Singh and another

...Petitioners

Versus

M/s Delhi Combine & Tractor Parts and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Nandan Jindal, Advocate for the petitioners.

Mr. Sunil Kumar, Advocate for respondent Nos.1 and 2.

Mr. Luvinder Sofat, AAG, Punjab

Jitendra Chauhan, J. (Oral)

CRM-24534-2016

CRM is allowed and Annexure A-1 is taken on record,
subject to all just exceptions.

Main Case

By filing the present criminal revision, the petitioner has assailed the judgment dated 18.02.2015, vide which, the learned Addl. Sessions Judge, Sangrur, upheld the judgment of conviction and order of sentence dated 26.07.2012, passed by learned Sub Divisional Judicial Magistrate, Sunam, whereby, the petitioner was convicted under Section 138 of Negotiable Instruments Act (for short 'the Act') and sentenced to undergo RI for a period of 1 ½ years and to pay as compensation the cheque amount i.e. Rs.3,00,000/-.

Heard.

In **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5)**

SCC 663, the Full Bench of Hon'ble the Supreme Court has issued the following guidelines in cheque bouncing cases:-

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 a 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.

In this case, the compromise has been effected between the

parties and the entire disputed amount has been paid to respondent Nos.1 and 2. Furthermore, Mr. Sunil Kumar, Advocate, counsel for respondent Nos.1 and 2 admits that the amount in question has been paid to the complainant and states that the respondents have no objection if the present revision petition is allowed. However, in view of Damodar's case (supra), the petitioner is directed to deposit 10% of the cheque amount with the Punjab State Legal Services Authority as compensation fee within six weeks from today.

In view of the above, this Court feels that no purpose will be achieved in keeping the proceedings alive. Accordingly, the present revision is allowed on the basis of the compromise and the judgments of conviction and order of sentence of the appellate Court as well as the trial Court are set aside. The petitioner is already on bail. The petitioner is acquitted of the charge on the basis of compromise.

21.02.2017

*ashok***(JITENDRA CHAUHAN)**
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No