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

CRR No.4735 of 2016

Date of Decision: 27.03.2017

DAVINDER SINGH

.....Petitioner

Vs

KULDEEP KUMAR & ANR

.....Respondents

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

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Sunny K. Singla, Advocate
for the complainant-Kuldeep Kumar.

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

RAJ MOHAN SINGH, J. (Oral)

Petitioner is in revision against the concurrent judgments of conviction and orders of sentence passed by the Courts below convicting the sentencing the petitioner for the offence under Section 138 of the Negotiable Instruments Act (hereinafter to be referred as 'the Act').

During pendency of the present petition, parties have amicably settled their dispute. On 23.12.2016, complainant himself was present in the Court and submitted that he has no objection in case sentence of the petitioner is suspended during

pendency of the present petition. Thereafter on 21.02.2017, following order was passed:-

*“Petitioner has assailed impugned convictions and sentences recorded by the Courts below for the offence under Section 138 of the Negotiable Instruments Act. During pendency of the present criminal revision petition, parties have entered into an amicable settlement. On 23.12.2016, complainant Kuldeep Kumar appeared in person and submitted that he has no objection in case benefit of suspended sentence is granted to the petitioner. Sentence of the petitioner was suspended during pendency of the present criminal revision petition on 23.12.2016. Since the offence in question is almost a civil one which has been clothed in criminal overtone, therefore, priority should be given to compensatory mechanism. This exercise would be in consonance with the spirit of Section 147 of the Negotiable Instruments Act as well as dictum laid down by the Hon'ble Apex Court in **Damodar S. Prabhu vs. Sayed Babalal H., AIR 2010 SC 1907.***

Notice be again issued to complainant-Kuldeep Kumar requiring him to be present in person on the adjourned date.

Adjourned to 27.03.2017.”

Learned counsel for the complainant submitted that the parties have amicably resolved their differences and in view of Section 147 of the Act, the parties can be allowed to compound the offence.

Since the provision in terms of Section 147 of the Act is having compensatory mechanism and is almost a civil wrong

which has been clothed in a criminal overtone, I deem it appropriate to apply the parameters as laid down in **Damodar S. Prabhu vs. Sayed Babalal H., AIR 2010 SC 1907** and allow the parties to compound the offence. However the petitioner shall abide by the conditions of deposit of 15% of the cheque amount as envisaged in **Damodar S. Prabhu's** case (supra) in State Legal Services Authority, Punjab. In the event of non-deposit of the amount in question, this order will be of no consequence.

Petition stands disposed of accordingly.

March 27, 2017

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No