

CRM No. 40197 of 2016 in/and
CRR No. 4745 of 2016

-1-

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

CRM No. 40197 of 2016 in/and
CRR No. 4745 of 2016
Date of Decision: 20.01.2017

Jagroop Singh

-Petitioner

Versus

Jarnail Singh and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Mandeep K. Dhot, Advocate
for the petitioner.
Mr. Inder Pal Singh, Advocate
for respondent No.1.
Mr. Kirat Singh Sidhu, DAG, Punjab
for respondent No.2.

RAJ MOHAN SINGH, J. (ORAL)
CRM-40197-2016

In view of attending facts and circumstances of the case, delay of 393 days in filing the present revision petition is required to be condoned.

For the reasons mentioned in the application, delay of 393 days in filing the present revision petition is condoned.

Main case

Pursuant to order dated 22.12.2016, respondents

have appeared.

With the concurrence of the parties, the case has been taken for final disposal.

The petitioner was convicted under Section 138 of Negotiable Instruments Act, 1881 and was sentenced to undergo two years of rigorous imprisonment. Compensation was also granted to the complainant to the tune of cheque amount along with interest @ 9% per annum from the date of issuance of cheque till date.

During pendency of the appeal before the Additional Sessions Judge, Sangrur, a compromise was effected between the parties on 24.12.2015 vide which the controversy was settled between the parties and the amount in question was paid to the complainant. Thereafter, nothing survived between the parties. The factum of compromise could not be brought to the notice of the lower Appellate Court when the appeal was decided on 24.12.2015. As per judgment of the lower Appellate Court, none appeared on behalf of the appellant and the judgment of conviction and order of sentence recorded by the trial Court was upheld vide judgment dated 24.12.2015.

Thereafter, petitioner filed CRR No.4394 of 2015 which was ultimately dismissed as withdrawn on 18.11.2015 with a liberty to the petitioner to first surrender and then to file the present revision.

Pursuant to aforesaid order, the petitioner was arrested on 13.12.2016. Thereafter, the present revision came to be filed.

Factum of compromise and payment made by the petitioner have not been denied by learned counsel appearing on behalf of respondent No.1.

Apparently, both the parties by way of compromise dated 24.12.2015 have settled their dispute amicably. There was specific recital in terms of conviction of the petitioner and both the parties admitted that their respective accounts had been settled and the complainant showed his satisfaction and agreed not to initiate any recovery proceedings thereafter. The compromise was duly signed by the parties and witnessed by Sandeep Kumar and Balwinder Singh.

Now the parties are ad idem that the aforesaid compromise was executed without there being any pressure, threat or undue influence from any side. Indulgence of the Court is being sought for compounding the offence under Section 147 of the Negotiable Instruments 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 Khore, 2011 (2) RCR (Criminal) 298** and **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097**. The revisional jurisdiction of the High Court in terms of Section 401 Cr.P.C. would result in bringing the ends of justice between the parties. The revisional exercise would also be in consonance with the spirit of Section 147 of Negotiable Instruments Act.

In view thereof, impugned judgments are hereby set aside. Petitioner is allowed to compound the offence in terms of Section 147 of Negotiable Instruments Act.

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

20.01.2017
jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No