IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No.1226 of 2017 (O&M)
Date of Decision: 11.05.2017

Amandeep Singh --Petitioner

Versus

State of Punjab & another --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ashish Aggarwal, Advocate for the petitioner.

Mr. Prateek Sodhi, Advocate for respondent No.2.

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TEJINDER SINGH DHINDSA, J.
CRM-14631-2017:

Application is allowed as prayed for. The compromise deed dated 24.04.2017 as also affidavit of the complainant/respondent No.2 are taken on record as Annexures A-1 and A-2 and exemption from filing certified copies is granted.

Application is disposed of.

Main case:

Petitioner, Amandeep Singh was convicted and sentenced under Section 138 of the Negotiable Instruments Act by the trial Court vide judgment dated 06.05.2016 and sentenced to undergo RI for a period for one year and directed to pay compensation of Rs.1.20 lakhs under Section 357(3) Cr.P.C. to the complainant. Trial Court further directed that upon failure of payment of compensation, petitioner would undergo further RI for a period of one month. Appeal filed by the petitioner assailing his conviction stands dismissed vide judgment dated 07.03.2017 passed by the learned Additional Sessions Judge, Amritsar.

Resultantly, the instant revision petition at the hands of Amandeep Singh.

Mr. Ashish Aggarwal, learned counsel appearing for the petitioner has made a submission that a settlement has been arrived at with the complainant, namely, Rajinder Kaur and prays for compounding of the offence as contemplated under Section 147 of the Negotiable Instruments Act.

In the light of such submission having been made, it would not be necessary for this Court to delve into the minute details and facts leading to the institution of the instant revision petition.

Suffice it to notice that the complainant had filed the complaint raising allegations that in order to discharge the legally enforceable debt and liability, the petitioner had issued a cheque bearing No.673384 dated 08.02.2013 for an amount of Rs.90,000/- drawn on Canara Bank, Ranjit Avenue, Amritsar in favour of the complainant. Cheque was presented through the complainant's banker i.e. Punjab and Sind Bank, Sultanwind Road, Amritsar but the same was dishonoured with the remarks **'insufficient funds'** vide memo dated 11.02.2013. Thereafter, complainant served upon the accused/present petitioner a legal notice dated 27.02.2013 through registered AD post but despite service of the legal notice, petitioner had failed to make good the cheque payment. Accordingly, proceedings under Section 138 of the Negotiable Instruments Act were initiated.

Mr. Prateek Sodhi, Advocate has put in appearance on behalf of the complainant and concedes that a settlement dated 24.04.2017 for a total amount of Rs.1.20 lakhs has been arrived at between the parties and out of which a sum of Rs.40,000/- in cash has already been paid by the petitioner. The settlement dated 24.04.2017 has been placed on record as Annexure A-1. As per terms and conditions of the settlement, the remaining amount of Rs.80,000/- is to be paid by the brother of the petitioner, namely, Harvinder Singh by means of eight post dated cheques starting from series Nos.121206 to 121213 for an amount of Rs.10,000/- each dated 22.05.2017, 22.06.2017, 22.07.2017, 22.08.2017, 22.09.2017, 22.10.2017, 22.11.2017 and 22.12.2017 all drawn upon IDBI Bank, Branch Majitha Road, Amritsar.

Even the complainant Rajinder Kaur is present in Court and has been duly identified by her counsel.

She has made a categoric submission as regards settlement in the light of the terms and conditions contained in the compromise deed dated 24.04.2017 at Annexure A-1. Complainant states that she would have no objection to the prayer made on behalf of the petitioner for compounding of the offence.

Section 147 of the Act reads as follows:

> ***"147. Offences to be compoundable*** *– Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."*

Section 147 of the Act is in the nature of an enabling provision which provides for the compounding of offence prescribed under the same Act, thereby serving as an exception to the general rule incorporated in sub-Section (9) of Section 320 of the Code of Criminal Procedure which states that "No offence shall be compounded except as provided by this Section.

Compounding of the offence even at the later stages of litigation in cheque bouncing cases has been held to be permissible. In **K.M.Ibrahim v. K.P.Mohammed & Anr., 2009(14) SCALE 262,** the Hon'ble Supreme Court had held as under:

> *"12. It is true that the application under Section 147 of the Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the Appellate Forum. However, Section 147 of the aforesaid Act does not bar the parties from compounding an offence under Section 138 even at the appellate stage of the proceedings. Accordingly, we find no reason to reject the application under Section 147 of the aforesaid Act even in a proceeding under Article 136 of the Constitution."*

In view of such settled position relating to the compounding of offences under the Act, the prayer raised in the present revision petition for compounding of the offence is accepted.

There is, however, another aspect which would require to be dealt with. Petitioner Amandeep Singh has raised the plea for compounding of the offence before this Court in revision. In **Damodar S. Prabhu v. Sayed Babalal H., 2010 (2) RCR (Criminal) 851**, the Hon'ble Supreme Court had framed certain guidelines towards a graded scheme of imposing costs on parties who unduly delay the application seeking compounding of the offence. In terms of such guidelines, it was observed that if the application for compounding of the offence under the Act is made before the Sessions Court or 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 and such costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority.

Counsel appearing for the petitioner has produced during the course of hearing today, a receipt dated 09.05.2017 issued by the Member Secretary, Punjab Legal Services Authority, Chandigarh, which reflects the deposit of a sum of Rs.15,000/- by brother of the petitioner towards costs of 15% of the cheque amount i.e. Rs.90,000/-.

In view of the above, compounding of the offence is allowed and conviction of the petitioner is set aside. Petitioner, who is stated to be in custody shall be released forth with.

It is, however, made clear that if there be any deviation from the terms and conditions of the compromise deed dated 24.04.2017 at Annexure A-1, it would be open for the complainant/respondent No.2 herein to seek revival of the instant revision petition.

Revision petition is allowed in the aforesaid terms.

11.05.2017 **(TEJINDER SINGH DHINDSA)**
harjeet **JUDGE**

i) Whether speaking/reasoned? Yes

ii) Whether reportable? Yes