

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

**CRR No.1308 of 2017(O&M)
Date of Decision-16.05.2017**

Maninder Singh	... Petitioner
Versus	
Surinder Kumar and another	... Respondents

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

Present: Mr. Bhavyadeep Walia, Advocate
for the petitioner.

Mr. D.S. Gurna, Advocate
for respondent No.1.

Ms. Rimplejeet Kaur, AAG, Punjab
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. This criminal revision has been preferred by petitioner-Maninder Singh against the judgment dated 04.03.2017 passed by Additional Sessions Judge, Patiala whereby the judgment dated 21.07.2016 passed by Judicial Magistrate First Class, Patiala in the proceedings under Section 138 of the Negotiable Instruments Act was upheld.

[2]. Petitioner was tried for the offence under Section 138 of the Negotiable Instruments Act (for short 'the Act') before the Judicial Magistrate First Class, Patiala. Vide judgment dated 21.07.2016, petitioner was convicted under Section 138 of the Act and was sentenced to undergo rigorous imprisonment for 10 months and to pay compensation equivalent to cheque amount.

The conviction and sentence of the petitioner were upheld by the Additional Sessions Judge, Patiala while dismissing the appeal on 04.03.2017.

[3]. In the present criminal revision, learned counsel for the petitioner submitted that compromise has been arrived at between the parties vide which settlement in a sum of Rs.1,20,000/- has been made towards full and final settlement of all the past, present and future liabilities of the petitioner.

[4]. An application under Section 482 Cr.P.C has been moved along with criminal revision for exemption from paying 15% of cheque amount towards cost of litigation in terms of judgment of Hon'ble Apex Court in **Damodar S. Prabhu Vs. Sayed Babalal H., 2010(2) RCR (Criminal) 851.**

[5]. Learned counsel further submitted that in **Damodar S. Prabhu's case (supra)**, it was held that the imposition of cost on the parties was on account of unduly delay in compounding the offences. The requirement of deposit of the costs will act as a deterrent for delayed composition.

[6]. In the instant case, loan itself was taken on 05.10.2014 and 18.10.2014, therefore, the case was not of any inordinate delay in disposal of the case. The father of the petitioner is bed ridden. The mother and sister of the petitioner are doing domestic labour. The settled amount to the tune of

Rs.1,20,000/- has been procured by the petitioner with very great effort.

[7]. Learned counsel for the complainant agreed to the aforesaid statement of the petitioner and stated that the compromise has been effected between the parties vide which an amount of Rs.1,20,000/- is agreed to be paid in lump sum towards all past, present and future liabilities of the petitioner and he has no objection in case payment of 15% of the cheque amount in view of **Damodar S. Prabhu's case (supra)** is waived off.

[8]. The State in view of settlement arrived at between the parties has no serious objection to the aforesaid course.

[9]. Section 147 of the Negotiable Instruments Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in *stricto sensu*, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from unduly delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs

would be a matter of discretion of the Court. The Court in a given case can reduce the costs as regards the specific facts involved therein, of course reasons are to be recorded for such a variance.

[10]. In the present case, taking into consideration the time and in the manner the litigation was fought, I am of the view that 15% of the cheque amount towards cost of litigation can be waived off in the interest of justice.

[11]. In view of above, this criminal revision is disposed of on the basis of compromise. Necessary amount as agreed by the petitioner to be paid forthwith, if not paid and thereafter, necessary consequences to follow.

(RAJ MOHAN SINGH)
JUDGE

16.05.2017

Prince

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No