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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1877 of 2017 (O&M)
Date of Decision: 31.05.2017

LALIT

......PETITIONER

Vs

TEK CHAND AND ANOTHER

.....RESPONDENTS

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

Present: Mr. Anand Kumar Bishnoi, Advocate
for the petitioner.

Mr. Arjun Atri, Advocate
for respondent No.1.

Mr. Pradeep Prakash Chahar, D.A.G., Haryana.

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RAJ MOHAN SINGH, J.(Oral)

On 18.05.2017, following order was passed:-

At the very outset, learned counsel for the petitioner submits that the petitioner is ready to settle the issue with the complainant by making payment in one go provided he is released on interim bail.

Notice of motion for 31.05.2017.

In the meanwhile, petitioner be released on interim bail subject to payment of entire amount *to the satisfaction of Chief Judicial Magistrate, Gurgaon.*

At this stage, Mr. Arjun Atri, Advocate accepts notice on behalf of respondent No.1.”

Learned counsel for the petitioner submitted that entire payment has been made to the complainant to the satisfaction of the Chief Judicial Magistrate.

Learned counsel also prayed for exemption from paying 15% of the cheque amount towards costs of litigation in terms of judgment of Hon'ble Apex Court in **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097.**

This revision has arisen out of conviction recorded by both the Courts below under Section 138 of Negotiable Instruments Act.

Learned counsel for the petitioner by placing reliance upon **Kaushalya Devi Massand vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298** and **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097** submitted that the revisional jurisdiction of this Court can be exercised in order to bring ends of justice between the parties and exercise of such powers would be in consonance with the spirit of Section 147 of Negotiable Instruments Act.

Since the provision in terms of Section 138 of

Negotiable Instruments Act is rested upon compensatory mechanism, therefore, petitioner is ordered to compound the offence under Section 147 of Negotiable Instruments Act at revisional stage.

In view of above, this revision petition is allowed, impugned judgments passed by both the Courts below are hereby set aside and the petitioner is acquitted of the charges.

As, a lumpsum payment has been made to the satisfaction of the claim of the claimant and the claimant has no objection in case payment of 15% of the cheque amount in view of **Damodar S. Prabhu's case (supra)** is waived of.

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

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* and the chronic litigants are to be discharged of the offences in terms of Section Section 138 of the Act, therefore, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest so as to avoid valuable time of the Court being wasted and the parties are also 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 for the reasons to be recorded for such a variance.

In the present case, since the petitioner has paid the amount in excess of the amount due and the complainant has received the entire payment in lumpsum, in view of above, I am of the view that the imposition of 15% of the cheque amount towards costs of litigation is required to be waived of.

Ordered accordingly.

May 31, 2017 **(RAJ MOHAN SINGH)**
jyoti Y. **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No