

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.320 of 2017

Date of Decision: February 23, 2017

Paramjit Singh Mehta, Prop. M/s Mehta Travellers.....Petitioner

Versus

State of Haryana and anotherRespondents

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

Present: Dr.Naresh Kaushik, Advocate for the petitioner.

Mr.Deepak K.Grewal, Deputy Advocate General,
Haryana.

Mr.Sanjeev Gupta, Advocate for respondent No.2.

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TEJINDER SINGH DHINDSA, J.

Petitioner Paramjit Singh Mehta was convicted under Section 138 of Negotiable Instruments Act, 1881 (for short "Act 1881") and sentenced to undergo simple imprisonment for a period of six months in terms of judgment dated 11.12.2015 passed by the Court of learned Judicial Magistrate Ist Class, Panchkula. In addition, he was burdened with compensation in the sum of ₹30,000/- in favour of the complainant as envisaged under Section 357(2) of the Code of Criminal Procedure and in default thereof, ordered to undergo simple imprisonment for a further period of six months. Appeal having been preferred, the same has been dismissed vide order dated 18.1.2017 passed by

the learned Additional Sessions Judge, Panchkula.

2. Resultantly, the present revision at the hands of Paramjit Singh Mehta.

3. Dr.Naresh Kaushik, learned counsel appearing for the petitioner, at the very outset, makes a submission that in view of the compensation awarded in the sum of ₹30,000/-, the matter has been settled with the complainant, namely, Shri Lal Singh, sole proprietor of M/s Lal Auto Fuels, HUDA City Centre II, Sector 5, Panchkula. He, accordingly, prays for compounding of the offence as contemplated under Section 147 of the Act 1881. 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 present revision petition. Suffice it to notice, that the complainant had filed a complaint alleging that the present petitioner had taken a friendly loan of ₹30,000/- and had issued a post-dated cheque bearing No.448632 dated 29.1.2013 drawn on Punjab National Bank, Sector 4, Panchkula and such cheque, upon presentation, had been dishonoured with the remarks "insufficient funds" vide memo, Exhibit C2. Thereafter, complainant is stated to have got issued a legal notice dated 27.10.2013, Exhibit C3, but since the payment was not made good, proceedings under Section 138 of the Act 1881 were initiated.

4. Upon notice having been issued in the instant petition, Mr.Sanjeev Gupta has put in appearance on behalf of the complainant/respondent No.2. On the last date of hearing i.e. 20.2.2017, a sum of ₹30,000/- in cash was handed over to Shri

Lal Singh, sole proprietor of M/s Lal Auto Fuels, Sector 5, Panchkula i.e. the complainant-party. Such amount of money was accepted by the complainant towards furtherance of the prayer of the petitioner seeking compounding of the offence.

5. Section 147 of the Act 1881 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.

Indisputably, the provisions of the Code of Criminal Procedure, 1973 would be applicable to the proceedings pending before the courts for trial of offences under the said Act. Stricto sensu, however, the table appended to Section 320 of the Code of Criminal Procedure is not attracted as the provisions mentioned therein refer only to provisions of the Penal Code and none other.”

6. Section 147 of the Act 1881 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 the sub Section 9 of Section 320 of Code of Criminal Procedure which states that “no offence shall be compounded except as provided by this Section”.

7. Compounding of the offence even at the later stage of litigation in cheque bouncing cases has been held to be permissible. Reference in this regard may be made to the decision of the Hon'ble Supreme Court in ***K.M.Ibrahim v.***

K.P.Mohammed & Anr., 2009 (14) SCALE 262.

8. In the light of such settled position in law relating to compounding of offences under the Negotiable Instruments Act, the prayer made by learned counsel for the petitioner for compounding of offence is accepted.

9. There is, however, another aspect which would require to be dealt with. Petitioner Paramjit Singh has raised the plea for compounding of the offences 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 offence under the Act is made before the Sessions Court or High Court in appeal or revision, 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 compensation before the High Court should be deposited with the State Legal Services Authority.

10. The cheque in question was for an amount of ₹30,000/- which had been dishonoured and on account of which proceedings under Section 138 of the Act 1881 had been initiated by the complainant. 15% of the cheque amount would be ₹4500/-. Petitioner, as such, is liable to deposit a cost of ₹4500/- with the Haryana State Legal Services Authority.

11. In view of the discussion above, compounding of offence is allowed and conviction of the petitioner is set aside.

12. The benefit of this order shall enure to the petitioner and he would be released only upon making the requisite deposit of ₹4500/- with the Haryana State Legal Services Authority.

13. Revision petition is disposed of in the aforesaid terms.

February 23, 2017

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* Yes/No

Whether Reportable? Yes/No