

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

**CRR No.760 of 2017 (O&M)
Date of Decision: 28.04.2017**

Rajiv Sohal and anotherPetitioners

Versus

T T K Healthcare Ltd. ... Respondent

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

Present:Mr. H.P.S. Ishar, Advocate
for the petitioners.

Mr. Sushil Sharma, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(ORAL)

[1]. Both the parties are *ad idem* that the controversy is settled between the parties. An affidavit of N. Kannan son of Sh. S. Narsimhan, Deputy General Manager and authorized signatory of T.T.K Health Care Ltd dated 28.04.2017 has been filed in the Court, wherein it has been recited that the parties have settled their dispute amicably and all the pending litigation between them concerning the payment have been settled. The respondent-Company has received an amount of Rs.1,50,000/- vide DD Nos.159038 and 159039 of the even date i.e. 22.02.2017. Respondent-Company has pleaded no objection in case the sentence awarded to the petitioner is compounded in terms of Section 147 of the Negotiable Instruments Act.

[2]. This revision has been preferred by the petitioner against the judgment dated 11.11.2013, whereby the sentence

awarded by the trial Court was upheld.

[3]. An application under Section 5 of the Limitation Act has also been filed seeking to get condonation of delay of 1115 days in filing the criminal revision. In view of attending circumstances, wherein both the parties have amicably resolved the controversy in question, I deem it appropriate to allow the application i.e CRM No.6966 of 2017 for condoning the delay of 1115 days in filing the criminal revision.

For the reasons mentioned in the application, delay of 1115 days in filing the criminal revision is condoned.

Application stands disposed of.

[4]. Apparently, both the parties have settled the dispute in an amicable manner. The affidavit filed by Sh.N. Kannan is suggestive of the fact that the complainant has been paid the amount and the respondent has no objection in case the judgment dated 11.11.2013 passed by the Additional Sessions Judge, Chandigarh and judgment of conviction and order of sentence dated 10.09.2012 passed by Judicial Magistrate First Class, Chandigarh are set aside and the petitioner is acquitted.

[5]. The 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 the cause of justice, which is based on compensatory mechanism.

[6]. Reliance can be placed on **Kaushalya Devi Massand Vs. Rookishore 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 the Negotiable Instruments Act, which has to be placed on high pedestal in view of facts and circumstances involved in the case.

[7]. In view of above, impugned judgment of conviction and order of sentence dated 10.09.2012 passed by Judicial Magistrate First Class, Chandigarh and judgment dated 11.11.2013 passed by Additional Sessions Judge, Chandigarh are hereby set aside. Petitioner is allowed to compound the offence in terms of Section 147 of the Negotiable Instruments Act. Revision petition is allowed.

[8]. 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, Chandigarh, failing which this order will be of no consequence.

28.04.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No