

\$~42

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 647/2017 & CRL.M.(Bail) 1576/2017,
CRL.M.A.14178/2017

RAMESH KUMAR SRIVASTAVA Petitioner
Through: Mr.Chander Parkash, Adv.

versus

ASHOK S WANKHEDE & ANR Respondents
Through: Mr.Izhar Ahmad, APP for State
Mr.Chander Pal Singh Siddhu, Adv.
for R-1.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

%

05.09.2017

This is a petition under Section 397/401 Cr.P.C read with Section 482 Cr.P.C filed by the petitioner, Mr.Ramesh Kumar Srivastava, for setting aside the impugned judgment dated 08.06.2016 and order on sentence dated 24.06.2016, passed by the learned Metropolitan Magistrate, NI Act, West-03, Tis Hazari Courts, Delhi and impugned judgment dated 11.08.2017 and order on sentence dated 17.08.2017, passed by the learned Additional Sessions Judge-04, West District, Tis Hazari Courts, Delhi in C.A. No.54494/16.

Counsel for the petitioner has submitted that learned MM, NI Act, West-03, Tis Hazari Courts, Delhi has held the petitioner/accused guilty of the offence under Section 138 Negotiable Instruments Act, 1881 vide judgment dated 08.06.2016 and vide order on sentence dated 24.06.2016,

sentenced the petitioner to 1 month Simple Imprisonment and ordered to pay a fine of Rs.2,00,000/- which shall be paid to the complainant as compensation and in default of payment of fine, the convict (petitioner herein) to undergo a further simple imprisonment for 1 month. Counsel for the petitioner has further submitted that the petitioner preferred appeal before learned Additional Sessions Judge-04, West District, Tis Hazari Courts, Delhi and the learned Additional Sessions Judge-04, West District, Tis Hazari Courts, Delhi upheld the impugned judgment dated 08.06.2016 and order on sentence dated 24.06.2016 vide impugned order dated 17.08.2017.

Learned counsel for the petitioner submits that the petitioner, Mr.Ramesh Kumar Srivastava has settled the dispute with the complainant/respondent No.1 vide compromise deed dated 04.09.2017 and in terms of the settlement, the petitioner has already paid the settled amount of Rs.1,05,000/- vide DD No.203269 dated 24.08.2017 drawn on Kotak Mahindra Bank. He further submits that since the matter has been settled between the parties, the offence be compounded and the petitioner be released from judicial custody.

The respondent No.1, Mr.Ashok S Wankhede is present in Court today and has been identified by his counsel Mr.Chander Pal Singh Siddhu. The respondent No.1 also admits that the matter has been amicably settled with the petitioner vide compromise deed dated 04.09.2017 and as per the terms of settlement, he has already received Rs.1,05,000/- from the petitioner and nothing remains due against the petitioner. He further submits that he has no claim or grievance left against the petitioner. He further submits that the settlement/compromise has taken place voluntarily, without

any force, pressure or coercion. He further submits that he has no objection if the offence is compounded.

Keeping in view the submissions made by learned counsel for the parties and in view of the fact that the matter has been amicably settled between the parties, consequently, the impugned order on sentence dated 17.08.2017 passed by learned Additional Sessions Judge-04, West District, Tis Hazari Courts, Delhi in C.A. No.54494/16 is set aside and the offence under Section 138 Negotiable Instruments Act, 1881 is compounded. Petitioner be released from judicial custody forthwith, if not required in any other case.

Copy of this order be sent to the Jail Superintendent, Central Jail Mandoli for necessary compliance.

The present petition is disposed of accordingly. All pending application(s) (if any) also stand disposed of.

Copy of this order be given *dasti*, as prayed.

I.S.MEHTA, J

SEPTEMBER 05, 2017/sr