

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

**CRM-A-650-MA-2014 in/and
CRA-AS-158-2018 (O&M)
Date of decision:29.11.2018**

Dixit Kumar

.....Applicant-appellant

versus

Dr. Anil Kumar

....Respondent

**CRM-A-661-MA-2014 in/and
CRA-AS-159-2018 (O&M)**

Dixit Kumar

.....Applicant-appellant

versus

Dr. Anil Kumar

....Respondent

**CRM-A-662-MA-2014 in/and
CRA-AS-160-2018 (O&M)**

Dixit Kumar

.....Applicant-appellant

versus

Dr. Anil Kumar

....Respondent

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Sarfraj Hussain, Advocate for the applicant(s)-appellant(s).

**Ms. Rajni Maurya, Advocate and
Mr. Naveen Batra, Advocate for the respondent.**

Kuldeep Singh, J. (Oral)

CRM-A-650-MA-2014
CRM-A-661-MA-2014 and
CRM-A-662-MA-2014

Leave to appeal is granted.

Registry is directed to assign the number of the appeals.

CRA-AS-158-2018,
CRA-AS-159-2018 and
CRA-AS-160-2018

This order shall dispose of three appeals i.e. CRA-AS-158-2018, CRA-AS-159-2018 and CRA-AS-160-2018 titled as Dixit Kumar vs. Dr. Anil Kumar. For brevity, facts have been taken from CRA-AS-158-2018.

The appellant(s) has impugned the order dated 28.01.2014 as well as subsequent order dated 30.01.2014, passed by learned Judicial Magistrate, Ist Class, Anandpur Sahib, vide which, accused was acquitted of the charge under Section 138 of the Negotiable Instrument Act. The facts of the case are that it is alleged that accused issued a cheque in discharge of the legal liability which bounced and as a result of which, the complainant filed a complaint. In this case, charges were framed and evidence was also led by the complainant. Thereafter, the accused moved an application that he is ready to pay the double amount of cheque to be paid for compounding the offence. Undoubtedly, double the amount of cheque as costs, as ordered by the Court were deposited. Learned Magistrate accordingly passed the order of acquittal on the basis of judgment passed in ***“Auto Pins (India) Limited and others vs. Union Territory, Chandigarh and another” 2012 (Criminal) 880***, wherein a case for quashing the payment was offered and accepted by the complainant.

Learned counsel for the appellant(s) states that he had categorically stated before the trial Court that he is not ready to accept the payment and

insisted on judgment on merits.

On the other hand, learned counsel for the accused has stated that he admit that he had issued the cheque and therefore he deposited double the amount of cheque. The perusal of Section 138 of Instrument Act 1881 shows that the sentence provided for the said offence is two years or fine which may extent to twice the amount of cheque or both. In this way, the fine is also a punishment for committing the offence. Since, in this case, the accused-respondent admit that he had issued a cheque and admitted liability and deposited double the amount of cheque, therefore in place of acquittal, the judgment will be taken as judgment of conviction and double the amount of cheque deposited before the trial Court shall be taken as fine. The fine shall be paid to the complainant as compensation. Learned counsel relied upon the authorities which relate to the compounding of the offence. Since in this case, the judgment of acquittal is ordered to be converted into judgment of conviction and double the amount of cheque is treated as fine which is alternative sentence provided for the offence under Section 138 of the Negotiable Instruments Act, therefore, the said authorities are not applicable in the present case.

Accordingly, the present appeals are disposed of.

(KULDIP SINGH)
JUDGE

29.11.2018
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Whether speaking/ reasoned:	Yes
Whether Reportable:	No