

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

206

**CRM-M-14941-2017 (O&M)
Date of Decision:- 13.08.2018**

M/s Janta Collections

.....Petitioner

Versus

M/s Tandon Garments

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Saurabh Garg, Advocate for the petitioner.

None for the respondent.

P.B. BAJANTHRI, J.(ORAL)

Today also none appears for the respondent.

2. In the instant petition, petitioner sought for quashing of judgment dated 06.01.2017 (Annexure P-3) passed by Additional Sessions Judge, Patiala whereby revision petition was allowed and order dated 07.06.2016 (Annexure P1) passed by Judicial Magistrate Ist Class, Patiala has been set aside and matter has been remitted back to trial court. Now the matter is before Judicial Magistrate Ist Class, Patiala.

3. Learned counsel for the petitioner submitted that in case the complainant/respondent is not willing to receipt the cheque amount, in that case court can compound the offences on deposit of cheque amount in view of Hon'ble Apex Court in the case of *Meters and Instruments Private Limited and another versus Kanchan Mehta* reported in 2017 AIR SC 4594 where it is held that even if there is no consent of the parties court can examine the matter and proceed to close the proceedings when no loss is going to cause to the respondent. In the present petition, petitioner had

already deposited the cheque amount as observed in order dated 07.06.2016 and further deposit of 10% of the cheque amount i.e. Rs.1233/- with the District Legal Service Authority, Patiala he is entitled for compounding of offence in view of the guidelines case titled as ***Damodar S.Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663. Relevant extract of judgment reads as under:-

“21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid,

then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

22. *Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority."*

4. Learned counsel for the petitioner submitted that cheque amount has already been deposited in the court of Judicial Magistrate Ist Class, as recorded by the JMIC, Patiala on 07.06.2016. Insofar as depositing

10% of the cheque amount is concerned it was remitted/deposited in the District Legal Service Authority, Patiala. It was noticed that petitioner has not paid any interest on the cheque amount of Rs.12,330/-.

5. In view of these factual aspects, in order to give quietus to the litigation complaint No. 1823/2015 titled as M/s Tandon Garments versus M/s Janta Collection pending before Judicial Magistrate Ist Class, Patiala along with all consequential proceedings arising therefrom stands quashed subject to the condition that petitioner shall pay interest @ 9% on the cheque amount to the respondent and he is directed to deposit interest amount in the court of JMIC, Patiala within a period of 4 weeks from today. Petitioner is hereby directed to inform this court relating to deposit of interest amount before the court of JMIC, Patiala. Trial court is directed to disburse the cheque amount of Rs.12,330/- as well as interest @ 9% of cheque amount from the date of cheque till today to the complainant at the earliest, if he submit an application to that effect.

With the above observation, petition stands allowed.

13.08.2018

pooja saini

**(P.B. BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No