

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16480-2018 (O&M)

Date of Decision:-11.07.2018.

Rajinder

.....Petitioner

Versus

Monika

.....Respondent

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

Present: Mr. R.S. Kundu, Advocate for the petitioner.

Mr. Vikram Singh, Advocate for the respondent.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has sought for the following relief:-

“Petition u/s 482 Cr.P.C. for quashing of complaint No.132/2017 dated 30.05.2017, CNR No.HR50AI-000391-2017 titled as Smt. Monika Vs. Sh. Rajinder Singh u/s 138 Negotiable Instrument Act (Annexure P/3) pending before Chief Judicial Magistrate, Taluka Court Ghanaur, District Sonapat and quashing of the summoning order dated 30.05.2017 and order of bailable warrants dated 08.02.2018 (Annexure P-4 and P-5) as the petitioner is ready to make the payment of said cheque to the respondent, in the interest of justice.”

2.) Parties have arrived at compromise and seek quashing of the complaint on the basis of compromise.

3.) Pursuant to Annexure P-2 affidavit dated 06.01.2017, petitioner

furnished a demand draft for a sum of Rs.6,50,000/- on 6.07.2018 in Court. However, respondent is prayed for interest on the aforesaid amount having regard to the date of affidavit read with the issuance of demand draft of Rs.6,50,00/- @ 12 % per annum.

Hon'ble the Supreme Court issued guidelines in the case titled as **Damodar S. Prabhu Vs. Sayed Babulal H. reported in 2010 (5) SCC 663.** Relevant extract of the 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."

In view of the law laid down in the *Damodar S. Prabhu's* case cited supra, as the petitioner has made payment of Rs.6,50,000/- in this Court, this petition is allowed and Complaint No.132/2017 dated

Rajinder Singh u/s 138 Negotiable Instrument Act (Annexure P/3) stands quashed subject to payment of 8% interest to the respondent upon the amount of Rs.6,50,000/- from the date of encashment of cheque and deposit of 10% of the cheque amount in the District Legal Services Authority, District Sonapat within a period of 2 months from today.

(P.B. BAJANTHRI)
JUDGE

July 11, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.