

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

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**CRM-M-32667-2018(O&M)
Date of Decision : 11.10.2018**

Bagicha Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Mr. Rohit Suri, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Kriti Sharma, Advocate for respondent No.2.

P.B. BAJANTHRI, J.(ORAL)

In instant petition, petitioner has challenged judgments of conviction and order of sentence passed by the court of JMIC, Amritsar dated 15.01.2013 in complaint No. 1512 of 2009 under Section 138 of Negotiable Instruments Act, whereby petitioner was convicted and sentenced to undergo RI for a period of 2 years and to pay a fine of Rs.1,000/- in default of payment of fine simple imprisonment for 2 months. Petitioner filed criminal appeal against the judgment dated 15.01.2013 and consequential judgment passed in the criminal appeal No.77 of 2013 decided by Additional Sessions Judge, Amritsar on 07.11.2013 and dismissed the appeal and directed the trial court to execute the sentence. Trial court issued warrant of arrest against the petitioner vide order dated 04.07.2018. Petitioner sought for quashing of both judgments of court below and subsequent order Annexure P-2, P-3 and P-6 respectively.

2. Learned counsel for the petitioner submitted that respondent had given Rs.3,26,000/- to the petitioner. Petitioner returned the said amount through cheque which was dishonoured. Consequently, respondent proceeded to initiate complaint under Section 138 of NI Act which resulted into conviction of petitioner.

3. After the disposal of appeal before the court of sessions, petitioner offered to pay the amount to compound the offence and seeks permission to compound the offence on the basis of compromise. Pursuant to his offer petitioner paid whole amount to the respondent. In view of all the payments made by the petitioner to the respondent and no objection to the compounding of the offence by the respondent read with the guidelines of the case titled as ***Damodar S.Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663, parties are permitted to compound the offence. 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.

In view of the above guidelines read with the order dated 13.09.2018 petitioner and respondent are permitted to compound the offence. Learned counsel for the petitioner submitted that pursuant to order dated 13.09.2018 he had already settled to interest amount with respondent and he also deposited a sum of Rs.56400/- in District Legal Services Authority, Amritsar vide receipt No. 312851 dated 10.10.2018. These facts are not disputed by the respondent.

4. In view of these factual aspects, judgment of conviction passed by the court below dated 15.01.2013, and 07.11.2013 and all consequential proceedings arising therefrom are set aside. Petitioner is acquitted of the charge on the basis of compromise.

5. With the above observation, petition stands disposed of.

11.10.2018

pooja saini

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

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No