

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

CRR-3068-2012 (O&M)

Date of decision-16.11.2018

M/s Surjit Finance corporation and another

...Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amandeep Singh Gill, Advocate
for the petitioners.

Mr. M.K.Sangwan, DAG, Haryana.

Mr. Varun Mittal, Advocate and
Mr. Anshul Sharma, Advocate for
Mr. Vikas Mohan Gupta, Advocate for respondent No.2.

MANOJ BAJAJ, J.

On 13.11.2018, time was granted to learned counsel for respondent No.2 to ascertain the existence of the compromise. Learned counsel for the parties have been heard and respondent No.2 reiterates that indeed the compromise has taken place and in terms of the memorandum of understanding dated 06.11.2013 (Annexure P-1) the amount of ₹20 lacs has been paid to the respondent-non-applicant. The payment of ₹12,00,000/- has been made by way of two bank demand drafts, i.e. demand draft No.368976 dated 01.11.2013 of OBC Bank and demand draft No.008452 dated 01.11.2013 of Axis Bank. Remaining payment of ₹8,00,000/- has been made by way of issuance of post dated cheque No.723087 dated 20.11.2013 drawn on the OBC Bank which admittedly also stands encashed.

The civil suit filed by respondent No.2 has also been withdrawn in view of the compromise and the order in that regard is passed on 23.11.2013 which is on record as Annexure P-6.

In view of the stand of the parties and compliance of the terms of memorandum of understanding, the prayer for compounding the offence punishable under Section 138 of Negotiable Instrument Act, 1881 is accepted and the impugned judgment of conviction dated 10.08.2011 as well as order of sentence dated 11.08.2011, affirmed by the appellate Court on 19.09.2012 are set aside. The complaint is rendered as inconsequential. Both the learned counsel have submitted that the efforts to compound the matter were initiated during the pendency of the dispute and finally matured at a stage when the parties have reached before this Court. Against the cheque amount of ₹88 lacs the complainant has agreed to compound the offence by accepting ₹20 lacs. Learned counsel submits that in case the penalty is imposed that would frustrate the terms of compromise as the accused would not be able to pay and, therefore, pray for exemption from payment of penalty. Considering the facts and circumstances of this case, the prayer is allowed and payment of penalty is exempted.

Disposed off.

(MANOJ BAJAJ)
JUDGE

16.11.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No