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

CRR No.793 of 2012

Date of Decision: 02.02.2018

Nirmal Singh

....Petitioner

Vs

Jalour Singh

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Padam Kant Dwivedi, Advocate,
for the petitioner.

Mr. A.S. Kakkar, Advocate,
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

1. This revision petition has arisen against the judgments of the Courts below vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for one year and to pay compensation to the tune of double of the cheque amount.

2. Notice of motion was issued on 16.03.2012. Thereafter, an amount of Rs.1,00,000/- was paid vide two demand drafts amounting to Rs.50,000/- each to learned counsel for the respondent in Court on 28.05.2012 and the remaining sentence of the petitioner was suspended to the satisfaction of Chief Judicial Magistrate/Duty Magistrate,

Faridkot.

3. Thereafter, on 24.09.2012, further amount of Rs.1,00,000/- was paid to learned counsel for the respondent and modalities of settlement were to be worked out. On 15.02.2013, further amount of Rs.1,00,000/- was paid to the respondent in consonance with the settlement arrived at between the parties outside the Court. An amount of Rs.2,00,000/- was remaining and was to be paid in the month of April, 2013. However, the said amount was not accepted by the complainant and the petition was admitted on 09.04.2013.

4. Thereafter, the matter was placed before the Lok Adalat in the High Court. With due deliberations, the parties arrived at a settlement.

5. Order dated 28.11.2016 passed by the Lok Adalat was indicative of the fact that till that time, Rs.3,00,000/- has already been paid by the petitioner to the respondent. An amount of Rs.2,00,000/- was to be paid till 16.01.2017. Next installment of Rs.2,00,000/- was to be paid by 16.03.2017. Due to demonitization and other contingencies, the amount could not be paid in time, however, on 01.09.2017, amount of Rs.2,00,000/- vide two demand drafts dated 19.08.2017 and 31.08.2017 was paid to the complainant.

6. Since the learned counsel for the complainant was

not present in Court, the amount was kept in safe custody of Registrar (Judicial) with a direction to pay to the complainant on his appearance. Admittedly, the amount was received by the complainant thereafter.

7. Out of the remaining amount of Rs.2,00,000/-, an amount of Rs.1,00,000/- was deposited vide DD No.177753 dated 19.12.2017 on 20.12.2017 and the same is still lying in safe custody of Registrar (Judicial).

8. Today, photocopy of demand draft No.170287 dated 29.01.2018 has been produced on record, original of which has been handed over to learned counsel for the complainant towards full and final discharge of bilateral obligation arising out of compromise.

9. Learned counsel for the respondent has admitted the fact that the petitioner has paid the entire amount as agreed between the parties, however, Registrar (Judicial) be directed to pay the amount of Rs.1,00,000/- which was kept in safe custody of Registrar (Judicial) vide order dated 20.12.2017.

10. In view of aforesaid facts, I deem it appropriate to dispose off this revision petition as having been compromised.

11. The offence relating to dishonour of cheque is having compensatory profile and it should be given precedence over punitive mechanism. The offence is almost a civil wrong which

has been clothed in criminal overtone. Therefore, priority should be given to compensatory mechanism.

12. Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298** and **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097.**

13. Learned counsel for the respondent would be at liberty to apply for disbursement of the amount lying with Registrar (Judicial). On doing so, the Registrar (Judicial) shall hand over the demand draft.

14. Since, the revision petition has been decided on the basis of compromise, necessary consequences to follow.

02.02.2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No