

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision No.2517 of 2013 (O&M)

Date of Decision: 04.12.2018

Parveen

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Vikasdeep Singh, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

None for respondent no.2.

HARI PAL VERMA J.

CRM-36490-2013:

For the reasons stated in the application, the same is allowed.

Delay of 75 days in filing the present revision petition is condoned.

CRR-2517-2013:

Petitioner – Parveen has filed the present revision petition impugning the judgment dated 01.03.2013 passed by learned Additional Sessions Judge, Kapurthala, whereby her appeal against the judgment of conviction and order of sentence dated 14.07.2011 passed by Sub Divisional Judicial Magistrate, Sultanpur Lodhi, was dismissed.

Briefly stated, the respondent-complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, “the Act”) with the allegations that the petitioner-accused had borrowed a sum of Rs.40,000/- from the complainant and in order to discharge her legal liability, she had issued a cheque no.441553 dated 18.03.2010 for a sum of Rs.40,000/- drawn at Punjab and Sind Bank, Sultanpur Lodhi. However, when the said cheque was presented for encashment, it was returned by the banker with the remarks “funds insufficient” vide memo dated 20.03.2010. The complainant served legal notice dated 30.03.2010 upon the petitioner-accused vide postal receipt dated 31.03.2010, calling upon her to make the payment within 15 days, but since the money was not paid, the complaint in question was filed.

Learned Magistrate after hearing both the sides and appreciating the evidence on record, convicted the petitioner for offence under Section 138 of the Act and sentenced her to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.500/-, failing which, the petitioner was ordered to undergo further simple imprisonment for one week.

Aggrieved against the judgment of conviction and order of sentence dated 14.07.2011, the petitioner filed an appeal before the Court of Session, but the same was dismissed by learned Sessions Judge, Kapurthala vide judgment dated 01.03.2013.

It is in these circumstances, the present revision petition has been filed by the petitioner-accused. The revision petition is accompanied with a compromise deed dated 27.07.2013 (Annexure P-1) entered between

the petitioner and the complainant. The petitioner has also moved an application i.e. CRM-21157-2016 for compounding of offence.

This Court vide order dated 14.08.2013 had directed the parties to get their statements recorded before the Illaqa Magistrate in support of the compromise. Accordingly, the report of learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi dated 16.10.2013 has been received, wherein it is reported that the parties have appeared and got their statements recorded. The complainant has stated that he has received the entire cheque amount from the accused and nothing is due towards the accused. The complainant-respondent no.2 has made a statement that the compromise so arrived between parties is voluntary, without undue influence, pressure or coercion and he has no objection if the present petition is accepted.

It has been brought to the notice of this Court that during the pendency of the present revision petition, the complainant has expired. However, before his death, he has made the aforesaid statement regarding the compromise, which is duly established with the report submitted by the learned Magistrate.

Pursuant to order dated 05.11.2018 of this Court, the petitioner has deposited a sum of Rs.6,000/-, being 15% of the cheque amount, with the Punjab Legal Services Authority, Chandigarh in view of judgment of Hon'ble the Apex Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H. 2010(2) RCR (Criminal) 851.**

Having heard learned counsel for the parties and considering the fact that a compromise has been effected between the parties and the

entire outstanding dues of the complainant have been paid to him and the petitioner has also deposited 15% of the cheque amount with the Punjab State Legal Services Authority in view of judgment of Hon'ble the Apex Court in the case of **Damodar S. Prabhu** (*supra*), permission to compound the offence under Section 138 of the Act is granted.

Accordingly, the present application for compounding of offence as well as revision petition are allowed and the impugned judgment of conviction and order of sentence dated 14.07.2011 passed by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi as well as judgment dated 01.03.2013 passed by the learned appellate Court are set aside and the petitioner is acquitted of the charge levelled against her.

September 04, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No