

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

**CRR No. 1101 of 2016
Date of decision: 24.09.2018**

Gurseb Singh Saini and another

...Petitioners

Versus

Shashi Kant

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. K. Saini, Advocate
for the petitioners.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting aside the judgment of conviction dated 23.03.2015 and order of sentence dated 26.03.2015, passed by the Judicial Magistrate First Class, Ambala, vide which, the petitioner Gurseb Singh Saini was held guilty for commission of offence punishable under Section 138 of the Negotiable Instruments Act (*for short 'N.I. Act'*) and was directed to undergo rigorous imprisonment for a period of two years and to pay the cheque amount of ₹13,13,563/- with interest @ 9% from the filing of the complaint till its realization; as well as judgment dated 01.03.2016, passed by the lower appellate Court, vide which the appeal filed by the petitioner was dismissed.

Vide order dated 26.05.2016, the sentence of the petitioner was suspended as he had undertaken that he would deposit a sum of ₹5,00,000/- to show his bonafide.

Thereafter, the matter was referred to Mediation and Conciliation Centre of this Court and a compromise was arrived at between

the parties as per the agreement/settlement dated 05.12.2016, executed between the petitioner and complainant before the Mediator. In the said agreement/settlement, it was stated that the petitioner will pay the total amount of ₹10,70,000/- as full and final settlement in respect of the dispute relating to cheque No. 451054 dated 29.04.2013 and the amount of ₹5,00,000/-, deposited by the petitioner, will be withdrawn by the respondent/complainant. It was further agreed that the remaining amount of ₹5,70,000/- will be paid in a shape of demand draft in two equal installments of ₹2,85,000/-, to be paid on 15.02.2017 and 31.03.2017.

Learned counsel for the petitioner submitted that the petitioner has already made the entire payment to the respondent/complainant. Thereafter, on 30.05.2017, the petitioner has sought further time to deposit the cost in terms of the judgment of Hon'ble Supreme Court rendered in ***Damodhar S. Prabhu vs. Sayed Babalal H., 2010 (2) R.C.R. (Criminal) 851.***

Learned counsel for the petitioner has placed on record a receipt dated 24.09.2018, vide which, the petitioner has deposited the cost of ₹1,00,000/- with the Haryana State Legal Services Authority.

After hearing both the parties and considering the fact that the parties have amicably settled their dispute before the Mediation and Conciliation Centre of this Court and no other litigation is pending between them, the permission is granted to compound the offence under the provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in ***2018 (1) R.C.R. (Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another*** that when the parties have amicably settled their dispute, the conviction and

sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, this revision petition is allowed and judgment of conviction dated 23.03.2015 and order of sentence dated 26.03.2015, passed by the Judicial Magistrate First Class, Ambala as well as judgment dated 01.03.2016, passed by the lower appellate Court, are set aside.

September 24, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No