

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

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**CRR-2058-2016 (O&M)
Date of Decision : 12.07.2018**

Bimal Aggarwal

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present: Mr. Ravi Sharma, Advocate for the petitioner.

Mr. Manish Sharma, AAG, Haryana.

Mr. Rajinder S.Rana, Advocate for respondent No.2.

P.B. BAJANTHRI, J.(ORAL)

In the instant petition, petitioner has challenged judgments/order of conviction passed by the court of JMIC, Ambala dated 11.03.2015/18.03.2015 and consequential judgment passed in the criminal appeal No.30 of 2015 decided by Sessions Judge, Ambala on 17.05.2016.

2. Learned counsel for the petitioner submitted that respondent has given Rs.25 Lac 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. Complaint of respondent-Varinder Shastri No. 467 dated 12.06.2012 was decided on 11.03.2015/18.03.2015 while sentencing petitioner to undergo RI for a period of 2 years and pay Rs.23,30,000/- with interest at the rate of 9% from the filing of the complaint till its realization of the cheque amount. Petitioner filed criminal appeal against decision passed by the Judicial

Magistrate Ist, Class, Ambala dated 11.03.2015/18.03.2015 wherein appeal was dismissed on 17.05.2016 while affirming the order passed by the Judicial Magistrate Ist, Class, Ambala. Hence the present petition.

3. During pendency of the present petition, parties have entered into compromise and settled the matter for a sum of Rs.19,68,000/- and seeks permission to compound the offence on the basis of settlement. In view of the settlement and no objection of the respondent read with the guidelines in case titled as ***Damodar S.Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663, petitioner is permitted to compound the offence before this court. 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.

4. In view of these facts and circumstances, judgments/order dated 11.03.2015/18.03.2015 and 17.05.2016 are set aside subject to deposit of 15% of Rs.25,00,000/- (cheque amount) with the Punjab Legal Service Authority as per the guidelines laid down in the case ***Damodar S.Prabhu's*** case cited (supra), litigation cost of Rs.5,000/- to be paid by the petitioner to the respondent and interest @ 9% on the cheque amount i.e. Rs.25,00,000/- from the date of encashment till today within a period of two months.

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

12.07.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No