

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

CRR No. 4021 of 2014

DATE OF DECISION :- March 15, 2018

Santosh Kumar Chadha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. K.S. Jaitley, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. D.K. Prajapati, Advocate
for Mr. R.S. Madaan, Advocate for respondent no. 2.

Petitioner is present in the Court today.

On a complaint under Section 138 of the Negotiable Instruments Act having been filed by complainant Ashwani Chadha against accused Santosh Kumar Chadha on the allegations that the latter had issued eight cheques of different dates duly filled in his own writing for a total sum of Rs.12,38,000/- bearing no. 363394 dated 21.12.2010 for Rs.3,50,000/-, cheque no. 563689 dated 30.12.2010 for Rs.2,00,000/-, cheque no. 563691 dated 6.1.2011 for Rs.50,000/-, cheque no. 566394 dated 10.1.2011 for Rs.1,00,000/-, cheque no. 623046 dated 14.1.2011 for Rs.1,50,000/-, cheque no. 623048 dated 16.1.2011 for Rs.88,000/-, cheque no. 676270 dated 23.1.2011 for Rs.1,00,000/- and cheque no. 676272 dated 5.2.2011 for Rs.2,00,000/- to the former on account of discharge of a financial liability.

However, on presentation, the cheques were received back unpaid due to the

reason of the account being closed and complainant was informed accordingly vide memos dated 15.2.2011, 16.2.2011, 17.2.2011, 03.11.2009. Thereafter complainant served a legal notice dated 3.3.2011 upon which accused calling upon him to make payment of cheque amount within stipulated period of 15 days but to no effect. As such he had brought the complaint in question before Judicial Magistrate Ist Class, Ambala. The accused was summoned. He accordingly put in appearance and was admitted to bail.

Notice of accusation for an offence under Section 138 of the Negotiable Instruments Act was served upon him to which he pleaded not guilty and claimed trial.

Complainant adduced evidence. Thereafter statement of accused was recorded under Section 313 Cr.P.C.. The accused did not lead any evidence in defence despite availing of several opportunities.

After hearing arguments, the trial Magistrate vide judgment dated 16.5.2013 convicted the accused for an offence under Section 138 of the Negotiable Instruments Act and in terms of order passed on 18.5.2013 sentenced him to undergo simple imprisonment for two years and to pay Rs.14,75,000/- to the complainant as compensation for commission of offence punishable under Section 138 of the Negotiable Instruments Act.

Feeling dissatisfied with the such judgment of his conviction and order of sentence, the accused preferred an appeal to the Court of Sessions, which was assigned to Additional Sessions Judge, Ambala who vide judgment dated 28.11.2014 dismissed the same.

The accused-convict was taken into custody and sent to jail to undergo the sentence. The accused-convict then approached this Court by

way of filing a Criminal Revision Petition, notice of which was given to the respondent-complainant, who put in appearance.

The matter has since been compromised between the parties. Counsel appearing on behalf of complainant has stated that he has no objection if the Criminal Revision Petition is accepted.

The revision petitioner has also deposited 15% of the cheque amount as compensation fee with the High Court Legal Services Committee in view of ratio of authority in **Damodar S. Prabhu versus Sayed Babalal 2010(5) SCC 663.**

I find it proper and appropriate to allow the parties to compound the offence, which is permissible in terms of Section 320(6) Cr.P.C. Since the offence is compoundable and can be allowed to be compounded during the pendency of the Revision Petition, therefore, the Criminal Revision Petition is accepted resultantly the judgments of conviction and sentence passed by the Courts below are set aside and accused is acquitted of notice of accusation served upon him.

(H.S. MADAAN)
JUDGE

March 15, 2018

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No