

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

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**CRR-3585-2016 (O&M)
Date of Decision : 21.05.2018**

Kuldeep Singh

...Petitioner

Versus

Navjot Singh

...Respondent

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

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. Chetan Kapoor, Advocate for the respondent.

P.B. BAJANTHRI, J.(ORAL)**CRM-4459-2018**

This is an application fixing the present case on some actual date of hearing to dispose of in view of compromise dated 20.01.2018. Heard. In view of the reasons mentioned in the application and affidavit, same is allowed.

Main matter is taken on board today itself.

Main case

In the instant petition, petitioner has challenged judgments passed by the court of JMIC, Sri Mukatsar Sahib on the complaint under Section 138 of Negotiable Instruments Act dated 22.04.2015 and consequential judgment passed in the criminal appeal No.21 of 2015 decided by Addl. Sessions Judge, Sri Mukatsar Sahib on 19.09.2016.

2. Respondent-Navjot Singh is stated to have paid a sum of Rs.3,55,000/- which was dishonoured. Consequently, Navjot Singh

proceeded to initiate complaint under Section 138 of NI Act. Complaint of Navjot Singh was decided on 22.04.2015 while sentencing petitioner to undergo RI for a period of 2 years under Section 138 of NI Act and to pay fine of Rs. 7 Lacs out of which Rs.5,000 will be treated as fine to be deposited in State Treasury and Rs.6,95,000/- as compensation to be paid to Navjot Singh. Petitioner filed criminal appeal against decision passed by the Judicial Magistrate Ist, Class, Sri Muktsar Sahib dated 22.04.2015 wherein appeal was dismissed while affirming the order passed by the Judicial Magistrate Ist, Class, Sri Muktsar Sahib. Hence the present petition.

3. During pendency of the present petition, parties have entered into compromise on 20.01.2018 to the extent of final settlement for a sum of Rs.4,50,000/- and parties seeks permission to compound the offence on the basis of complaint. In view of the compromise read with the case titled as ***Damodar S.Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663, parties are permitted to compound the offence before this court subject to deposit of 15% of the cheque amount with Legal Service Authority of 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, orders/judgments dated 22.04.2015 and 19.09.2016 are set aside subject to deposit of 15% of Rs.3,55,000/- (cheque amount) with the Legal Service Authority of this court. Petitioner is hereby further directed to deposit a sum of Rs.5,000/- in the State Treasury of Distt. Sri Muktsar Sahib (Punjab) as litigation cost. Learned counsel for the petitioner submitted that at the time of admission of this matter, he is stated to have deposited a sum of Rs.1 Lac pursuant to the order dated 30.09.2016. The said amount of Rs.1 Lac be released in the name of the petitioner by issuing demand draft or cheque within a period of 4 weeks after compliance of the above direction i.e. deposit of 15% of cheque amount.

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

21.05.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No