

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-394-2016 (O&M)

Date of Decision:-13.08.2018.

Vikram Singh

.....Petitioner

Versus

M/s Shriram Investment Ltd. and another

.....Respondents

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

Present: Mr. S.S. Rana, Advocate for the petitioner.

Mr.Gaurav Sharma, Advocate for respondent No.1.

P.B. BAJANTHRI, J. (Oral)

CRM-27592-2018

CRM for disposal of the main case in terms of the compromise is disposed of.

With the consent of counsel for the parties, main matter is taken up on Board for disposal.

CRR-394-2016

In the instant petition, petitioner has sought for quashing of judgment dated 19.11.2015 whereby the appeal filed by him against the judgment dated 4.2.2011 passed by Judicial Magistrate Ist Class, Ludhiana has been dismissed in which he was convicted for the offence under Section

and to pay a fine of ₹ 5,000/- and in default of payment of fine to further undergo rigorous imprisonment for 2 months.

2.) During pendency of the present revision petition, compromise has been effected between the parties. Affidavit of one Sh. Naresh Kumar, representative of M/s Shriram Transport Finance Company Limited is filed in Court today which is taken on record to the extent that parties have entered into compromise and they have no objection to dispose of the matter. Thus, parties have no objection to quash the complaint and consequential proceedings.

3.) Today learned counsel for the petitioner furnished a demand draft in favour of Shri Ram Transport Finance Company Ltd. dated 08.08.2018 amounting to ₹ 2,00,000/- as balance amount of settlement. Nothing remains due now. Parties requested to allow the parties to compound the offence at this stage.

Insofar as the compounding of offence in such matter, Hon'ble the Supreme Court issued guidelines in the case titled as **Damodar S. Prabhu Vs. Sayed Babulal H. reported in 2010 (5) SCC 663.** Relevant extract of the 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 the law laid down in the *Damodar S. Prabhu's* case cited supra, as the petitioner has settled the matter by making payment, parties are permitted to compound the offence. Thereafter this petition is allowed; judgment dated 19.11.2015 passed by Additional Sessions Judge and dated 4.2.2011 passed by Court below are set aside subject to deposit of 15% of the cheque amount in the State Legal Services Authority, Punjab within a period of 2 months from today. Accused be released on the compliance of above direction, if he is not required in any other case.

(P.B. BAJANTHRI)
JUDGE

August 13, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.