

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

230+109

CRR No. 654 of 2015

Date of decision: 24.01.2018

Naresh Kumar Sharma

...Petitioner

Vs.

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karamjit Singh Chahal, Legal Aid Counsel
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

Ms. Puja Chopra, Advocate for respondent No. 2.

MAHABIR SINGH SINDHU, J.(ORAL)
CRM No. 2471 of 2018

Allowed, as prayed for.

Main Case

Present revision petition has been preferred by the petitioner against the judgment and order dated 03.10.2013, passed by the learned trial Court whereby he was convicted under Section 138 of the Negotiable Instruments Act (for short 'the NI Act') and sentenced him to undergo simple imprisonment for a period of two years and to pay fine of ₹ 5,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of one month as well as judgment dated 25.11.2014, passed by the learned Appellate Court, whereby the judgment and order passed by the learned trial Court has been upheld.

It has been accepted by both the parties that the entire amount in question has been received by respondent No. 2 and there is no claim left against the present petitioner.

Learned counsel for the petitioner has placed on record an affidavit dated 22.11.2017 of respondent No. 2 and para 9 thereof reveals that deponent has no objection, if the revision petition filed by the petitioner is accepted.

Learned counsel appearing on behalf of respondent No. 2 has acknowledged that there has been a compromise between the parties and the entire amount in question has been received by respondent No. 2.

Heard learned counsel for the parties and perused the paper-book.

It is not in dispute that Section 147 of the NI Act postulates that every offence punishable under this Act shall be compoundable. It is now well settled principle of law that once the erring party has made the payment of entire amount, then, he is entitled to compound the offence, as contemplated under Section 147 of the NI Act. This matter is no more resintegra and is now well settled.

An identical question came to be decided by the Hon'ble Supreme Court in case **K.Subramanian Vs. R.Rajathi Represented by P.O.A.P.Kaliappan, (2010) 15 Supreme Court Cases 352** wherein it was ruled that under such circumstances, the parties should be permitted to compound the indicated offence. The relevant paras thereof reads as under: -

“8. Having regard to the salutary provisions of Section 147 of the Negotiable Instruments Act read with Section 320 of the Code of Criminal Procedure, this Court is of the opinion that in view of the compromise arrived at between the parties, the petitioner should be permitted to compound the offence committed by him under Section 138 of the Code.”

Moreover, once it is proved on record that the parties have compromised the matter and the petitioner-convict has already made the entire payment of amount, it would be in the interest of justice as well of parties that they be allowed to compound the offence to enable them to live in peace in future. Even otherwise, there is no legal impediment in this case and the same is covered by the ratio of law laid down in the judgment of Hon'ble Supreme Court in **K. Subramanian's case (supra)**.

In view of above, the present revision petition is hereby accepted and the impugned judgments of conviction and orders of sentence are set aside. Consequently, the petitioner-convict is acquitted of the charge framed against him, in view of compounding of offence as contemplated under Section 147 of NI Act and Section 320(8) Cr.PC.

In view of the above and taking into consideration the provisions of Section 138 of Negotiable Instruments Act, 1881, the present revision petition is allowed and the impugned judgment/orders are set aside and the accused is acquitted of the charges levelled against him.

January 24, 2018
Poonam (II)

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*