

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

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**CRR-2295-2017 (O&M)
Date of Decision : 12.07.2018**

Rameshwar

...Petitioner

Versus

Rajeev Kumar Sharma

...Respondent

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

Present: Mr. Amit Prashar, Advocate for the petitioner.

Mr. Sanjay Verma, Advocate for the respondent.

P.B. BAJANTHRI, J.(ORAL)

In instant petition, petitioner has challenged judgments of conviction and order of sentence passed by the court of JMIC, Faridabad dated 05.12.2015/09.12.2015 in complaint No. 3658 of 2011 under Section 138 of Negotiable Instruments Act, whereby petitioner was convicted and sentenced to undergo SI for a period of 1 year alongwith compensation amount of Rs..10,50,000/- to be paid to the complainant within one month from the passing of this order. Petitioner filed criminal appeal against decision and consequential judgment passed in the criminal appeal No.2 of 2016 decided by Additional Sessions Judge, Faridabad on 02.06.2017.

2. Learned counsel for the petitioner submitted that respondent has given Rs.7,00,000/- 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 which resulted into conviction of petitioner.

3. During pendency of the present petition, petitioner offered to pay the amount to compound the offence on 31.08.2017 and seeks permission to compound the offence. Pursuant to his offer petitioner paid whole amount to the respondent. Respondent further prayed for payment of interest on the belated payment. In view of all the payments made by the petitioner to the respondent and his no objection to the compounding of the offence read with the guidelines of the case titled as ***Damodar S. Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663, parties are permitted to compound the offence. 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 dated 05.12.2015/09.12.2015 and 02.06.2017 are set aside subject to deposit of 15% of Rs.7,00,000/- (cheque amount) with the Haryana Legal Service Authority as per the guidelines of ***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.7,00,000/- from the date of its encashment to till 25.09.2017 (the date of payment of first installment) in the court 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