

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

CRR No. 3295 of 2017 (O&M)

Date of decision: 15.12.2018

Baldev Saini

...Petitioner

Versus

Bharat Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amandeep Singh, Advocate
for the petitioner.

Mr. M. S. Dalal, Advocate for
Mr. Kashish Garg, Advocate
for respondent No. 1/complainant.

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the judgment of conviction 27.09.2016 and order of sentence of the even date, passed by the trial Court, vide which, the petitioner was held guilty for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) and was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of ₹5,000/-; in default of payment of fine, he was directed to further undergo simple imprisonment for 30 days; as well as the judgment dated 10.08.2017, passed by the Additional Sessions Judge, Bathinda, whereby the appeal filed by the petitioner was dismissed.

The present petition was filed by the petitioner along with an

application for suspension of sentence, however, noticing the fact that the petitioner has not surrendered before the trial Court/jail authorities, on 12.01.2018, the petitioner was directed to surrender before the trial Court/jail authorities.

Thereafter, the petitioner moved an application bearing CRM No. 6289 of 2018, placing on record the compromise arrived at between the parties and again, it was directed that the petitioner will surrender before the Chief Judicial Magistrate and he will be released on interim bail subject to his furnishing bail/surety bonds.

Thereafter, the case was referred to Mediation and Conciliation Centre of this Court for recording of the statement of the parties.

The Mediator, after recording the statement of the parties, has submitted a settlement/agreement dated 04.10.2018. The operative part of this settlement/agreement reads as under:

“....

7. That both the parties have resolved the present dispute amicably on the following terms and conditions:

a) That now the parties have settled the dispute with regard to Cheque No. 096668 in question and full and final payment has been made by Baldev Saini-petitioner to the complainant/respondent No. 1-Bharat Kumar.

b) Bharat Kumar-respondent No. 1 states that he has no objection if the present Revision Petition is accepted and the petitioner is acquitted by the Hon'ble High Court and he is ready to make any kind of statement in the Hon'ble High Court or any other Court of Law regarding the same. If

and when, his presence is required by any Court of Law for acquittal of the petitioner, he will be present there to give the required statement.

8. That there is no other case, or FIR pending between the parties regarding the present dispute.

9. That this is the full and final settlement between the parties regarding their financial dispute. None of the parties will claim over and above the present settled amount.

10. That the parties shall not breach the terms of settlement and if any party goes out of the terms of settlement then the party shall have a right to take course of law.

....”

Considering the aforesaid facts, it is submitted by learned counsel for the parties that the present petition be allowed and the offence be compounded in view of the provisions of Section 147 of the N. I. Act.

After hearing both the parties and considering the fact that the parties have amicably settled their dispute before the Mediation and Conciliation Centre of this Court and no other litigation is pending between them, the permission is granted to compound the offence under the provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in **2018 (1) R.C.R. (Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another** that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, this revision petition is allowed and judgment of conviction dated 27.09.2016 and order of sentence of the even date, passed by the trial Court, as well as the judgment dated 10.08.2017, passed by the

lower appellate Court, are set set aside.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement/agreement.

December 15, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No