

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

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CRR No. 3518 of 2017(O&M)

Date of decision: 19.02.2018

Ved Parkash

.....Petitioner

Versus

Gurvinder Singh and anr.

.....Respondents

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. J.S. Grewal, Advocate, for the petitioner.

Mr. R.S. Chauhan, Advocate for respondent No. 1.

Mr. A.S. Dhaliwal, DAG, Punjab.

MAHABIR SINGH SINDHU, J. (ORAL)

Present revision petition has been preferred against the impugned judgment dated 10.08.2017, passed by learned Additional Sessions Judge, Fazilka, whereby the appeal of the petitioner against the judgment and order dated 01.08.2016, passed by learned trial Court thereby convicting him under Section 138 of the Negotiable Instruments Act (for short 'the Act') and sentencing to undergo simple imprisonment for a period of one year along with payment of Rs.3 lacs as compensation to the complainant, has been dismissed.

It has been pointed out by the learned counsel for the petitioner that during the pendency of the appeal before learned Additional Sessions Judge, an amount of Rs.75,000/- was paid by the petitioner to the respondent and the matter was adjourned to make the balance payment of Rs. 1,95,000/- on the next date, but the petitioner did not deposit the same and consequently his appeal was dismissed vide impugned judgment dated 10.08.2017 and conviction and sentence awarded by learned trial Court

under Section 138 of the Act, was upheld.

Now, during the pendency of the present revision, learned counsel for the petitioner has submitted that in terms of order dated 01.11.2017 passed by this Court a demand draft bearing No. 523426 dated 26.10.2017 of Rs. 1,95,000/- in favour of Gurvinder Singh-complainant has been deposited with the Registry.

It is further contended that over and above the cheque amount, the petitioner has also deposited 15% of the amount i.e. Rs. 29,250/- before the Legal Services Committee of this Court in terms of order dated 01.11.2017 and the above factual position is duly acknowledged by learned counsel for the respondent.

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

It is not in dispute that Section 147 of the 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, with their consent, they are entitled to compound the offence, as contemplated under Section 147 of the Act and the same is no more res-integra.

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** has held that under such circumstances, the parties should be permitted to compound the indicated offence and the relevant para No. 8 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 alongwith 15% extra in favour of Legal Services Authority, as per law laid down by the Hon'ble Supreme Court in case 'Damodar S. Prabhu Vs. Sayed Babalal H., 2010(5) SCC 663, it would be in the interest of justice 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 the compounding of offence as contemplated under Section 147 of the Act and Section 320(8) Cr.P.C., the present revision petition is accepted and the impugned judgments of conviction and orders of sentence passed by both the Courts below are set aside and the petitioner-convict is acquitted of the charges.

It is made clear that an amount of Rs. 1, 95,000/- deposited by way of demand draft no. 523426 dated 26.10.2017 with the Registry of this Court be released in favour of the respondent/complainant on proper identification and receipt.

(MAHABIR SINGH SINDHU)
JUDGE

19.02.2018
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| 1. | Whether reportable? | Yes / No |
| 2. | Whether reasoned / speaking? | Yes / No |