

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision No.3681 of 2017 (O&M)

Date of Decision: 19.11.2018

Nachattar Singh

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Dhirinder Chopra, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

None for respondent no.2.

HARI PAL VERMA J.

Petitioner – Nachattar Singh has filed the present revision petition impugning the judgment dated 20.09.2017 passed by learned Additional Sessions Judge, Patiala, whereby his appeal against the judgment of conviction and order of sentence dated 06.05.2015 passed by Judicial Magistrate Ist Class, Patiala, was dismissed.

Briefly stated, the facts of the case are that the petitioner-accused availed a loan of Rs.95,000/- from the respondent no.2-Corporation, which was payable in 20 instalments of Rs.5,500/- each. However, after availing the loan, the petitioner was not regular in paying the instalments and an amount of Rs.34,998/- fell due against him upto

09.09.2013. In discharge of his legal debt and liability, the petitioner issued a cheque bearing No.750601 dated 09.09.2013 for the amount of Rs.34,998/- in favour of the respondent-Corporation. However, when the said cheque was presented in the bank for encashment, the same was returned unpaid with the remarks "funds insufficient" on 11.09.2013. Thereafter, the respondent-Corporation issued a legal notice dated 27.09.2013 to the petitioner, calling upon him to make the payment within a period of 15 days, but he failed to make payment. Hence, the respondent-Corporation, filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act").

Learned Magistrate after hearing both the sides and appreciating the evidence on record, convicted the petitioner for offence under Section 138 of the Act and sentenced him to undergo rigorous imprisonment for a period of six months and to pay compensation equivalent to half of the cheque amount vide judgment of conviction and order of sentence dated 06.05.2015. However, the payment of compensation was subject to result of appeal or revision, if any.

Aggrieved against the judgment of conviction and order of sentence, the petitioner filed an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Patiala vide judgment dated 20.09.2017.

It is in these circumstances, the present revision petition has been filed by the petitioner-accused.

Learned counsel for the petitioner submits that now, the matter has been resolved between the parties and the outstanding amount has been

paid to the respondent-Corporation and therefore, permission to compound the offence may be granted and the petitioner may be acquitted of the charges framed against him.

Learned State counsel does not dispute the fact that the matter has been resolved between the parties and the complainant has received the outstanding amount of Rs.34,998/- and therefore, he has no objection in case the complaint in question is quashed.

I have heard learned counsel for the parties.

Vide orders dated 15.12.2017 and 19.02.2018, the petitioner has already handed over demands drafts of Rs.20,000/- and 15,000/- to counsel for the complainant-respondent no.2, in Court, in order to make payment of the outstanding dues of Rs.34,998/- towards the respondent-Corporation. Thus, the petitioner has wiped off the admissible dues to the extent of the amount covered in the original impugned cheque.

Further, in compliance of order dated 20.08.2018 of this Court, learned counsel for the petitioner has also produced a photocopy of receipt No.302270 dated 17.10.2018, issued by Punjab State Legal Services Authority, SAS Nagar, whereby he has deposited an amount of Rs.5,250/- as the compounding fee of 15% in terms of judgment of Hon'ble the Apex Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H. 2010(2) RCR (Criminal) 851**, which is taken on record.

In view of the above, it is apparent that the matter has been finally settled between the parties and the liability is discharged. Since the petitioner has also deposited 15% of the cheque amount with the Punjab State Legal Services Authority, SAS Nagar in compliance of order dated

20.08.2018, necessary permission to compound the offence under Section 138 of the Act is granted.

Accordingly, the present revision petition is allowed and the impugned judgment of conviction and order of sentence dated 06.05.2015 passed by learned Magistrate and judgment dated 20.09.2017 passed by the learned appellate Court are set aside and the petitioner is acquitted of the charge levelled against him.

Since the main revision petition has been allowed, pending miscellaneous application, if any, shall stand disposed of.

November 19, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No