

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 3943 of 2017 (O&M)

Date of decision : 23.2.2018

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Rakesh Kumar

.....Petitioner

vs.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ravinder Malik, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Mr. Jitender S. Chahal, Advocate for the complainant -
respondent No.2.

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H. S. Madaan, J. (Oral)

On a complaint under Section 138 of the Negotiable Instruments Act, having been filed by complainant Ashok Kumar, against accused Rakesh Kumar, the same was disposed of by Judicial Magistrate Ist Class, Bhiwani, vide judgment dated 7.1.2017, in as much as, the accused was convicted for the said offence and vide order dated 9.1.2017, he was sentenced to undergo simple imprisonment for 2 years and directed to pay Rs. 5 lacs as compensation to the complainant, the sum which is equivalent to the cheque amount.

The accused preferred an appeal in the Court of Sessions,

which was however, dismissed by Additional Sessions Judge, Bhiwani, vide judgment dated 22.9.2017.

The accused was taken into custody. He has preferred a revision petition before this Court, notice of which was given to the complainant-respondent No. 2 who has put in appearance through counsel.

During the pendency of the revision petition, the matter has been compromised between the parties. An application in that regard has been moved.

Counsel appearing on behalf of the complainant has admitted the factum of compromise between the parties. 15% of the cheque amount has been deposited with the High Court Legal Service Committee, in view of the ratio of authority reported as **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (2) RCR (Criminal) 851,** by the Apex Court. Receipt in that regard has been placed on the file.

I have heard learned counsel for the parties, besides going through the record.

The offence under Section 138 of the Negotiable Instruments Act is compoundable. Under Section 320 (6) Cr.P.C. the parties can be allowed to compound such offence in revision petition also. Therefore, compounding of offence is permitted.

Resultantly, the revision petition is accepted, the impugned judgments of conviction and sentence passed against the revision-petitioner are set aside and he is acquitted of the notice of accusation served upon him.

Since the petitioner is stated to be in custody, the release warrants be issued directing the Superintendent Jail, concerned to set him at liberty, if he is not required in any other case.

23.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No