

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-4467-2017 (O&M)
Date of Decision: 28.05.2018

Joginder Mohan

... Petitioner

Vs.

State of Haryana and another

... Respondents

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

Present : Mr. Rakesh Bakshi, Advocate for the petitioner.

Mr. Munish Sharma, A.A.G. Haryana.

Mr. Paramdeep Singh, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

This revision petition is directed against the judgment dated 01.11.2017 passed by the Sessions Judge, Yamuna Nagar at Jagadhri dismissing the appeal of the petitioner against the judgment dated 18.08.2015 passed by the Judicial Magistrate Ist Class whereby petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of one year and to pay compensation to the tune of Rs.1,25,000/- in terms of Section 357 (3) Cr.P.C to the complainant.

2. During pendency of the present petition, parties have entered into a compromise on 14.12.2017 and parties seek permission to compound the offence on the basis of compromise. Learned counsel for respondent No.2 has not disputed and so also he has stated that he has received all the dues. In view of the compromise read with the case titled as ***Damodar S. Prabhu v. Sayed Babulal H.***; 2010 (5) SCC 663, parties are permitted to compound the offence before this Court subject to deposit of 15% of the cheque amount. 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.”

3. Learned counsel for the petitioner submitted that 15 % compounding money (a sum of Rs.15,000/-) is deposited on 16.1.2018 in this High Court in view of order dated 19.12.2017. The Legal Service Committee of this Court is requested to remit the above said amount to the State Legal Service Authority, Punjab, without any delay.

4. In view of the above facts and circumstances, judgment dated 01.11.2017 passed by the Sessions Judge, Yamuna Nagar and the judgment dated 18.08.2015 passed by the Judicial Magistrate Ist Class are set aside.

5. Petition stands allowed accordingly.

28.05.2018

rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No

**(P.B. Bajanthri)
Judge**