

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-155-2018 (O&M)

Date of decision: - 19.01.2018

Rajesh Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vijay Kumar, Advocate,
for the applicant-petitioner.

MAHABIR SINGH SINDHU, J. (ORAL)

CRM-1742-2018

Application is allowed, as prayed for.

CRM-1743-2018

Application is allowed, as prayed for. Documents
(Annexures P-1 and P-2), are taken on record, subject to all just
exceptions. CRM stands disposed of.

CRR-155-2018 (O&M)

Present revision petition has been preferred by the petitioner
against the judgment and order dated 06.04.2017, passed by the learned
trial Court, in Complaint No.1522 of 06.07.2015, whereby he was
convicted under Section 138 of the Negotiable Instruments Act (for short

'the NI Act') and sentenced him to undergo rigorous imprisonment for a period of six months and compensation equivalent to cheque amount and further in default of payment of compensation, simple imprisonment of three months as well as judgment dated 16.11.2017, passed by the learned appellate Court, whereby the judgment and order passed by the learned trial Court has been upheld.

It is contended by learned counsel for the petitioner that the matter has been compromised between the parties, vide compromise dated 10.01.2018 (Annexure P-1) and the amount of ₹1,00,000/- (Rupees One Lac), which was awarded as compensation, has already been paid to respondent No.2.

Notice of motion.

Mr. Ashok K. Sharma, Advocate for Mr. Arun Sharma, Advocate, put in appearance on behalf of respondent No.2 and has acknowledged the above statement and does not dispute the factum of compromise as well as receipt of amount of ₹1,00,000/- (Rupees One Lac).

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

It is not in dispute that Section 147 of the NI 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, he is entitled to compound the offence, as contemplated under Section 147 of the NI Act. This matter is no more res-integra and is now well settled.

An identical question came to be decided by 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 wherein it was ruled that under such circumstances, the parties should be permitted to compound the indicated offence. The relevant paras 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 of amount, it would be in the interest of justice as well of parties 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 above, the present revision petition is hereby accepted and the impugned judgments of conviction and orders of sentence are set aside. Consequently, the petitioner-convict is acquitted of the charge framed against him, in view of compounding of offence as contemplated under Section 147 of NI Act and Section 320(8) Cr.PC.

Petitioner be released immediately in this case, if not required in any other case.

January 19, 2018
naresh.k

(MAHABIR SINGH SINDHU)
JUDGE

Whether reportable?	No
Whether reasoned/speaking?	Yes