

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

Crl. Revision No. 4654 of 2017 (O&M)

Date of Decision:- 06.07.2018

Brij Mohan Gupta

....Petitioner

vs.

State of Punjab and another

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Prashant Vashisth, Advocate,
for the applicant-petitioner.

Mr. R.S. Bains, AAG, Punjab.

Mr. L.S. Sidhu, Advocate,
for respondent No.2.

Sudhir Mittal, J. (Oral)

Custody certificate dated 5.7.2018 prepared by Sh. Harbhajan Singh, Deputy Superintendent, Central Jail, Hoshiarpur has been filed in Court today and the same is taken on record.

The petitioner is an accused in complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act'). He has been convicted and sentenced to undergo rigorous imprisonment for a period of one year.

Learned counsel for the petitioner relies upon compromise deed dated 25.5.2018 to submit that the parties have amicably settled their dispute and the offence may, thus, be permitted to be compounded.

The complainant is represented through counsel and the factum of compromise is not disputed by him.

Offence under Section 138 of the Act is compoundable under Section

147 of the said Act at revisional stage, however, subject to deposit of 15% of the

cheque amount, as penalty, in view of the law laid down by Hon'ble the Supreme Court of India in **Damodar S. Prabhu vs. Sayad Babalal (2010) 5 S.C.C. 663.**

compound the offence at revisional stage is granted.

In view of the composition of offence by the parties, subject to deposit of 15% of the cheque amount i.e. ₹ 45,000/-, by the petitioner with the High Court Legal Services Authority, Chandigarh within 15 days from today, the instant petition is allowed; the judgment of conviction and order of sentence dated 13.8.2015 passed by JMIC, Dasuya and judgment dated 13.11.2017 passed by Additional Sessions Judge, Hoshiarpur are set aside and the petitioner stands acquitted.

On production of receipt by the petitioner as regards deposit of abovesaid amount and on receipt of certified copy of this order, the Court of learned Convicting Magistrate/Successor Court, shall issue release warrant of the petitioner forthwith.

July 06, 2018

poonam

(SUDHIR MITTAL)

JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No