

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

CRR-1741-2018 (O&M)

Date of Decision:10.10.2018

Jaspal Singh

... Petitioner

Vs.

Balwinder Singh

... Respondent

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

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Amandeep Chhabra, Advocate
for the respondent.

P.B. BAJANTHRI J. (Oral)

This revision petition is directed against the judgment dated 5.4.2016 passed by the Additional Sessions Judge, Amritsar dismissing the appeal preferred against the judgment dated 30.01.2015 passed by the Judicial Magistrate Ist Class, Amritsar in complaint No.21663 of 2012 titled as Balwinder Singh V. Jaspal Singh whereby petitioner has been convicted under Section 138 of the Negotiable Instruments Act for a period of one year.

2. During pendency of the present petition, petitioner and contesting respondent have entered into a compromise on 18.9.2018 (Annexure P-1) produced alongwith Application i.e. CRM-34657-2018 which was allowed on 1.10.2018. Learned counsel for the petitioner submitted that full and final payment to the respondent has been made and sought for compounding the offence at this stage and prayed for setting aside the judgment passed by the court below.

3. On the other hand, learned counsel for the respondent has not disputed the above factual aspect and seek permission to compound the

offence.

4. Heard learned counsel for the parties.

5. In view of the above factual aspect petitioner and respondents are permitted to compound the offence in view of the guidelines issued in the case titled as ***Damodar S.Prabhu versus Sayed Babulal H.*** reported in 2010(5) SCC 663. 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."

6. Accordingly, judgment dated 5.4.2016 passed by the Additional Sessions Judge, Amritsar as well as judgment dated 30.01.2015 passed in complaint No.21663 of 2012 titled as Balwinder Singh v. Jaspal Singh by the Judicial Magistrate Ist Class, Amritsar whereby petitioner has been convicted under Section 138 of the Negotiable Instruments Act for a period of one year are set aside.

7. Revision petition stands allowed subject to deposit of 15% of the cheque amount in the State Legal Service Authority, Punjab. Trial Court/Chief Judicial Magistrate, Amritsar is hereby directed to release the petitioner subject to compliance in respect of deposit of 15% of the cheque

amount before State Legal Service Authority, Punjab.

10.10.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No