

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

CRR-182-2018 (O&M)
Date of decision:19.1.2018

Amrik Singh

.....Petitioner

Versus

The Dhuri Primary Cooperative Agricultural Development Bank Limited, Dhuri

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajbir Singh, Advocate
for the petitioner.

MAHABIR SINGH SINDHU, J. (ORAL)

CRM-1941-2018

Allowed as prayed for.

Documents Annexure P-1 and P-2 are taken on record.

CRM stands disposed of.

CRR-182-2018 (O&M)

Present revision petition has been preferred by the petitioner against the judgment and order dated 2.12.2016, passed by the learned trial Court, in Complaint No.203 of 24.9.2015, 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

one year and to pay a fine of ₹5,000/- and in default of payment of fine, he shall undergo simple imprisonment for a further period of one month 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.

Notice of motion.

Mr. Kulwinder Singh, Advocate puts in appearance on behalf of respondent No.1 by filing power of attorney, which is taken on record.

It is contended by learned counsel for the petitioner that the entire amount of the cheque in question i.e. ₹1,74,000/- has been paid to respondent No.1-Bank and the same has been duly acknowledged by respondent No.1-Bank and there is nothing due against the petitioner.

The above factual position is not disputed by learned counsel appearing on behalf of respondent No.1.

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 and 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.

19.1.2018
Gaurav Sorot

(MAHABIR SINGH SINDHU)
JUDGE

1.

Whether reportable?

Yes / No
2.

Whether reasoned / speaking?

Yes / No