

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 4829 of 2017 (O&M)

Date of decision : 12.2.2018

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Rajinder Singh

.....Petitioner

vs.

Chhota Singh and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Sanjeev Roy, Advocate
for respondent No.1.

Mr. Ramandeep Sandhu, Senior DAG, Punjab
for respondent No.2.

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H. S. Madaan, J. (Oral)

A complaint under Section 138 of the Negotiable Instruments Act, had been filed by complainant Chhota Singh, against accused Rajinder Singh @ Bhola, on the allegations that the latter, in order to discharge his financial liability of Rs. 3 lacs, had issued cheque No. 761195 dated 26.8.2015 in the sum of Rs. 2,50,000/- drawn on State Bank of Patiala, Branch Sirhind Mandi, in favour of the complainant, but on presentation, the cheque was dishonoured due to insufficient funds in account of the accused. On being

informed by the bank, the complainant had served a legal notice dated 9.12.2014 upon the accused, but accused failed to make payment of the cheque amount within the stipulated period, as such the complaint was filed.

The accused was summoned. Notice of accusation under Section 138 of the Negotiable Instruments Act was served upon him, to which he pleaded not guilty and claimed trial.

The complainant led evidence oral as well as documentary. Thereafter, statement of the accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearance against such accused were put to him but he denied the same and pleaded false implication. The accused led evidence in defence.

After hearing the arguments, the Judicial Magistrate Ist Class, Fatehgarh Sahib, vide impugned judgment dated 12.10.2015, convicted the accused for offence under Section 138 of the Negotiable Instruments Act and vide order of even date he was sentenced to undergo rigorous imprisonment for 6 months and to pay compensation of Rs. 3 lacs.

The accused-convict feeling aggrieved by the said judgment had filed an appeal before the Court of Sessions, which was however dismissed by the Additional Sessions Judge, Fatehgarh Sahib vide judgment dated 15.9.2017. Therefore, he has come to this Court by way of filing the present revision petition.

The matter has been compromised between the parties.

This factum is admitted by the complainant, who has appeared in the

Court.

Counsel for the petitioner has handed over a demand draft in the sum of Rs. 2.20 lacs to the complainant conceding that a sum of Rs.40,000/- has already been paid to the complainant, which fact was conceded by the complainant.

The 15% of the cheque amount has been deposited with High Court Legal Service Committee, in view of the authority reported as **Damoder S. Prabhu vs. Sayed Babalal H. 2010 (2) RCR (Criminal) 851.**

The offence under Section 138 of the Negotiable Instruments Act is compoundable. Under Section 320 (6) Cr.P.C., such offence can be allowed to be compounded in revision also. Therefore, the revision petition is accepted, the impugned judgments passed by the courts below are set aside. Resultantly, the accused is acquitted of the notice of accusation served upon him.

The petitioner is stated to be in jail in this case. He is ordered to be released immediately, if his custody is not required in connection with any other case.

12.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No