

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

**CRR No.1902 of 2018
Date of decision :24.09.2018**

Ram Kumar ...Petitioner

Versus

M/s Luxmi B.K.O. ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. S.K.Verma, Advocate, for the petitioner.

Mr. Deepak Grover, Advocate for
Mr. Gaurav Jain, Advocate for the respondent.

RAJBIR SEHRAWAT, J. (ORAL)

This is a revision petition challenging the judgment/order dated 19.05.2018 passed by learned Sessions Judge, Sirsa, whereby, the appeal filed by the present petitioner was dismissed and the judgment of conviction dated 10.04.2017, under Section 138 of the Negotiable Instruments Act and the order of sentence dated 17.04.2017, passed by Judicial Magistrate 1st Class, Sirsa in Criminal Complaint No.144-2 of 2013, sentencing the petitioner to six months of rigorous imprisonment and to pay compensation to the tune of Rs.3, 94,850/-, i.e. equal to cheque amount, was upheld.

During the pendency of the present petition, the parties appeared to have compromised the matter. Therefore, a prayer was made by the counsel for the petitioner, to send the parties to the trial Court/Illaq Magistrate to get their statements recorded qua the compromise arrived at between the parties. Accordingly, the parties were directed to appear before the trial Court/Illaq Magistrate, for getting their statements recorded regarding the genuineness of the compromise effected between the parties

with a further direction to the trial Court / Illaqa Magistrate for submitting a report whether the compromise is without any pressure or not. Since by pleading compromise, the petitioner had sought compounding of the offence punishable under Section 138 of the Negotiable Instruments Act, therefore, vide order dated 07.08.2018, the petitioner was directed to deposit an amount of Rs.25,000/- with District Legal Services Authority, Sirsa as compounding costs in terms of the judgment of Hon'ble the Supreme Court in case of *Damodar S. Prabhu Vs. Sayed Babalal H. 210 AIR (SC) 1907.* The amount required to be deposited by him was reduced a little bit in view of the submissions made by counsel regarding the economic condition of the petitioner.

Pursuant to the above said order dated 07.08.2018, a report has been received from the Civil Judge (Jr. Division)-cum- Judicial Magistrate, 1st Class, Sirsa that compromise arrived at between the parties has been entered into without any fear or pressure. The report further says that the amount of Rs.25,000/- has already been deposited with the District Legal Services Authority, Sirsa, pursuant to the order passed by this Court.

Counsel for the petitioner submits that since the matter has been amicably settled between the parties, therefore, the parties may be permitted to compound the offence; and by setting aside the judgments/orders passed by the Courts below, the petitioner be ordered to be acquitted of the charges.

Mr. Deepak Grover, Advocate for Mr. Gaurav Jain, Advocate, appearing on behalf of the respondent/complainant, does not dispute the compromise arrived at between the parties. He has expressed his no objection for compounding of the offence as prayed by the counsel for the petitioner.

In view of the above, finding the prayer of the petitioner to be genuine and in view of the fact that the matter has been amicably settled between the parties, this Court finds that it would not be unjustified if the offence, for which the petitioner has been convicted, is permitted to be compounded; in terms of the above said judgment of Hon'ble the Supreme Court in ***Damodar S. Prabhu's case (supra)***.

Accordingly, the present revision petition is allowed. Necessary permission for compounding of offence under Section 138 of the Negotiable Instruments Act, for which the petitioner was convicted and sentenced by the trial Court, is granted. As a result of compounding, the judgment of conviction dated 10.04.2017, under Section 138 of the Negotiable Instruments Act and the order of sentence dated 17.04.2017 passed by Judicial Magistrate 1st Class, Sirsa in Criminal Complaint No.144-2 of 2013 and the judgment/order dated 19.05.2018 passed by learned Sessions Judge, Sirsa are set aside and the petitioner stands acquitted of the charge levelled against him.

(RAJBIR SEHRAWAT)
JUDGE

24.09.2018

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Whether speaking / reasoned : Yes No

Whether Reportable : Yes No