

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

**Criminal Revision No.1971 of 2018 (O&M)
Date of Decision : 03.12.2018**

Naveen Kumar

.....Petitioner

Versus

Jasvir Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Fariad Singh Virk, Advocate for the petitioner.

Mr. Deshpreet Singh, Advocate for
Mr. R.M.Sharma, Advocate for respondent no.1.

Mr. Ramandeep Sandhu, Sr. Deputy Advocate General, Punjab
for respondent No.2/State.

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MAHABIR SINGH SINDHU, J.

Present revision petition has been filed against the impugned judgment dated 07.05.2015, passed by learned Additional Sessions Judge, Patiala, vide which, appeal filed by the petitioner against the judgment and order of sentence dated 12.03.2014, passed by learned Judicial Magistrate 1st Class, Patiala, whereby, he was convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N.I. Act'*) and sentenced to undergo rigorous imprisonment for a period of six months and to pay compensation equivalent to the cheque amount, has been dismissed.

In pursuance of order dated 08.10.2018, passed by this Court, petitioner has paid an amount of ₹ 75,000/- to respondent No.1 through two demand drafts i.e. demand draft No.839186 dated 28.05.2018 (for an

amount of ₹ 20,000/-) and demand draft No.874232 dated 08.10.2018 (for an amount of ₹ 55,000/-) as full and final settlement between the parties.

On 30.10.2018, this Court passed the following order:-

“ It is jointly stated by both the parties that matter has been amicably settled between the parties and they wish to move an application for compounding the offence.

Permitted to do so.

Adjourned to 03.12.2018.

In the meanwhile, both the parties are directed to get their statements recorded before the Mediation Centre of this Court on 27.11.2018.

Report be submitted before this Court on or before 03.12.2018. ”

In terms of order dated 30.10.2018, report of the Mediator has been received, which, *inter alia*, states that the matter has been compromised between the parties and statement of respondent No.1 in this regard has also been recorded.

Learned Counsel for the petitioner contends that the matter under Section 138 of the N.I. Act has been compromised between the parties and an amount of ₹ 75,000/- has also been paid to respondent No.1 by way of two demand drafts. It is further contended that over and above the cheque amount, the petitioner has also deposited 15% of the amount i.e. ₹ 3,000/- before the High Court Legal Services Committee, vide receipt No.284084 dated 03.12.2018.

The above factual position regarding payment is duly acknowledged by learned Counsel for respondent No.1.

Heard learned Counsel for the parties and perused the paper-book.

It is not in dispute that Section 147 of the 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, with their consent, they are entitled to compound the offence and the same is no more *res integra*.

The Hon'ble Supreme Court in case '**K. Subramanian Versus R.Rajathi Represented by P.O.A.P. Kaliappan, (2010) 15 Supreme Court Cases 352**' has held that under such circumstances, the parties should be permitted to compound the indicated offence and the relevant para No. 8 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. ”

Still further, once it is proved on record that the parties have compromised the matter and the petitioner/convict has already made the entire payment along with 15% extra in favour of Legal Services Authority, then as per law laid down by the Hon'ble Supreme Court in case '**Damodar S. Prabhu Versus Sayed Babalal H., 2010(5) SCC 663**', it would be in the interest of justice that 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 for compounding of the matter and the same is covered by the ratio of law laid down in the judgments of the Hon'ble Supreme Court in the cases, referred above.

In view of the compounding of offence as contemplated under Section 147 of the Act and Section 320(8) Cr.P.C., application bearing CRM No.42741 of 2018 for compounding of the offence punishable under Section 138 of the N.I. Act on the basis of compromise arrived at between the parties and the present revision petition are allowed. The impugned judgments of conviction and orders of sentence, passed by both the Courts below, are set aside and the petitioner/convict is acquitted of the charges.

December 03, 2018
sunil devi/Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes