

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.2083 of 2018 (O&M)

Date of Decision: 19.09.2018

Jaskaran Singh

...Petitioner(s)

Versus

Rajesh Kumar & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Lal Singh Sandhu, Advocate
for the petitioner.

Mr. Parmeet Singh Mitha, Advocate for
Mr. P.S. Jammu, Advocate
for respondent no.1.

Mr. Nishchal Mann, DAG, Haryana.

HARI PAL VERMA J.

Petitioner – Jaskaran Singh has filed the present revision petition impugning the judgment dated 01.06.2018 passed by learned Sessions Judge, Sirsa, whereby his appeal against the judgment of conviction and order of sentence dated 05.12.2016 passed by Sub Divisional Judicial Magistrate, Dabwali, was dismissed.

Briefly stated, the facts of the case are that the respondent-Rajesh Kumar filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, “the Act”) alleging therein that since the petitioner-Jaskaran Singh and respondent-Rajesh Kumar had dealings with each other, the petitioner was to pay an amount of Rs.2,60,000/- to him. In discharge of his pre-existing liability, the petitioner issued a cheque

no.675741 dated 29.12.2007 for an amount of Rs.2,60,000/- in favour of the respondent-complainant drawn on Hissar Sirsa Kshetriya Gramin Bank, Masitan. However, on presentation of the said cheque in the bank, the same was returned with the remarks "Insufficient Funds" vide memo dated 18.02.2008. The respondent-complainant sent a legal notice dated 29.02.2008 to the petitioner-accused asking him to make the payment but he failed to make the payment. As such, a complaint under Section 138 of the Act was filed against the petitioner-accused.

Learned Magistrate vide judgment of conviction and order of sentence dated 05.12.2016 convicted the petitioner for offence under Section 138 of the Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.500/-, failing which, he was ordered to undergo further simple imprisonment for one month.

Aggrieved against the judgment of conviction and order of sentence, the petitioner filed an appeal before the Court of Session, but the same was also dismissed by learned Sessions Judge, Sirsa vide judgment dated 01.06.2018.

It is in these circumstances, the present revision petition has been filed by the petitioner-accused.

On 16.08.2018, this Court has passed the following order:-

*"Learned counsel for the petitioner states that in terms of the judgment passed by the Hon'ble Apex Court in **Damodar S. Prabhu Vs. Sayed Babalal H. 2010(2) RCR (Criminal) 851**, the petitioner has prepared a draft of the cheque amount along with the compounding fee @ 15 % of the cheque amount, but by mistake the petitioner has prepared a*

consolidated draft. He seeks time to deposit 15% of the cheque amount as compounding fee with the Legal Services Authority, Sirsa within a week from today. He also undertakes to bring a bank draft of Rs.2,60,000/- in the name of the complainant being the cheque amount.

On his request, adjourned to 19.09.2018.

Meanwhile, taking into consideration bonafide of the petitioner wherein he has produced a consolidated bank draft of Rs.2,99,000/-, sentence of the petitioner –Jaskaran Singh is suspended till the next date of hearing, subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Sirsa.

In compliance of order dated 16.08.2018 of this Court, learned counsel for the petitioner has produced a photocopy of demand draft No.003560 dated 21.08.2018 for an amount of Rs.2,60,000/- in favour of respondent no.1-Rajesh Kumar. He has also produced the receipt dated 21.08.2018 issued by District Legal Services Authority, Sirsa, whereby he has deposited an amount of Rs.39,000/-, as the compounding fee of 15% in terms of judgment of Hon'ble the Apex Court in the case of **Damodar S. Prabhu** (*supra*), which are taken on record.

Learned counsel for the petitioner submits that now, the matter has been resolved between the parties and the outstanding amount has been paid to the respondent-complainant, therefore, permission to compound the offence may also be granted and the petitioner may be acquitted of the charges framed against him.

On the other hand, Mr. Parmeet Singh Mitha, Advocate for Mr. P.S. Jammu, Advocate has put in appearance on behalf of respondent no.1-complainant and fairly submits that the matter has been resolved

between the parties and the complainant has received the outstanding amount of Rs.2,60,000/- and therefore, the respondent-complainant has no objection in case the complaint is quashed.

I have heard learned counsel for the parties.

In view of the above, it is apparent that the matter has been finally settled between the parties and the liability is discharged. Since the petitioner has also deposited 15% of the cheque amount with the District Legal Services Authority, Sirsa in compliance of order dated 16.08.2018, necessary permission to compound the offence under Section 138 of the Act is granted.

Accordingly, the present revision petition is allowed and the impugned judgment of conviction and order of sentence dated 05.12.2016 passed by learned Magistrate and judgment dated 01.06.2018 passed by the learned appellate Court are set aside and the petitioner is acquitted of the charge levelled against him.

September 19, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No