

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

CRR-2105 of 2018(O&M)
Date of Decision: 30.11.2018

Raj Kumar and another

....Petitioners

Versus

M/s. Datar Sales Corporation and another

....Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Akash Vashisth, Advocate
for the petitioners.

Mr. Yashwinder Singh, DAG, Haryana.

Mr. Iqbal Singh Saggu, Advocate
for respondent No.2.

MAHABIR SINGH SINDHU, J.(Oral)

The instant revision petition has been filed against the impugned judgment dated 28.05.2018, vide which, their appeal against the order dated 01.02.2018, convicting the petitioners under Section 138 of the Negotiable Instruments Act, has been dismissed.

During the pendency of the present revision petition in terms of the order dated 10.07.2018 passed by this Court, the petitioners had given the benefit of interim bail on payment of Rs. 1,10,250/- as compensation to the respondents as awarded by learned

Judicial Magistrate First Class vide order dated 01.02.2018.

Thereafter, the matter was referred to the Mediation and Conciliation Centre of this Court to explore the possibility of compromise. As per the report received from the Mediation and Conciliation Centre of this Court the parties voluntarily arrived at an amicable settlement.

In terms of the settlement arrived at between the parties, learned counsel for the petitioners has handed over a demand draft bearing No. 659150 for an amount of Rs. 20,000/- to learned counsel for respondents in the Court today and he undertakes to handover the same to the respondents. Photocopy of the same is retained on record.

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, as contemplated under Section 147 of the Act and the same is no more res-integra. 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 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.”

Moreover, once it is proved on record that the parties have compromised the matter and 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 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 the compounding of offence as contemplated under Section 147 of the Act and Section 320(8) Cr.P.C., the present revision petition is accepted and the impugned judgments of conviction and orders of sentence passed by both the Courts below are set aside and the petitioners- convicts are acquitted of the charges and their bail bonds and surety bonds be discharged.

[MAHABIR SINGH SINDHU]
JUDGE

November 30, 2018
rashmi

Whether speaking/reasoned	yes
Whether reportable?	no