

142

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

**CRR No.231 of 2018 (O&M)
Date of Decision:19.04.2018**

Hoshiar Singh

.....Petitioner

Vs

**The Jalalabad Primary Co-operative Agriculture
Development Bank Ltd. & Another**

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. D.S. Khurana, Advocate
for the petitioner.

Mr. Jaswinder Singh, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

CRM No.2270 of 2018

Since the parties have amicably resolved their controversy, I deem it appropriate to condone the delay of 10 days in filing the present petition. Application stands disposed of.

Main case

On 22.01.2018, following order was passed by the
Co-ordinate Bench of this Court:-

“CRM-2271-2018

Allowed as prayed for.

CRR-231-2018 (O&M)

*At this stage, Mr. Vipul Babuta, Advocate puts in appearance and files his vakalatnama on behalf of respondent No.1/complainant. It is submitted on behalf of the petitioner that pursuant to his conviction by the Trial Court and dismissal of the appeal he has since settled the dispute amicably with the complainant, and therefore, prays for quashing his conviction on account of the compromise arrived at. Ld. Counsel for the complainant concurs with the aforesaid submission in view of the decision of the Hon'ble Supreme Court in “**Damodar S. Prabhu Vs. Sayed Babalal H.**” 2010 (5) SCC 663.*

Let the petitioner place on record a copy of the receipts showing deposit of the compounding fees which would be 15% of the concerned cheque amount of ₹1,17,000/-.

Adjourned to 19.04.2018.

In the meantime, sentence awarded to the petitioner shall remain suspended.”

Learned counsel for the parties are *ad idem* that cheque amount has already been deposited by the petitioner with the respondent Bank and 15% of the cheque amount as per ratio of **Damodar S. Prabhu vs. Sayed Babalal H, 2010(5) SCC 663** has also been deposited with the Registry of this Court towards litigation expenses vide receipt dated 192 dated 07.03.2018.

Petitioner was convicted and sentenced to undergo rigorous for a period of 1 year and 6 months along with fine of Rs.2,000/- with the default mechanism by the trial Court.

Petitioner remained unsuccessful in the appeal when the appeal was dismissed by the Addl. Sessions Judge, Fazilka vide order dated 03.10.2017.

Since both the parties have compromised the issue and entire payment has been made in favour of the complainant besides deposit of 15% of the cheque amount towards litigation expenses as per ratio of **Damodar S. Prabhu's** case (supra), therefore, I deem it appropriate to exercise revisional jurisdiction under Section 401 Cr.P.C., in consonance with the provisions of compounding phenomenon as enshrined in Section 147 of the Negotiable Instruments Act. The offence relating to dishonour of cheque is having compensatory mechanism and the said profile should be given precedence over the punitive mechanism. The offence is almost a civil wrong which has been clothed in criminal overtone. Therefore, the priority has to be given as per spirit of Section 147 of the Act for settling the controversy on compensatory threshold. Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore Khore, 2011(2) R.C.R. (Criminal) 298.**

In view of facts and circumstances of the case, revisional jurisdiction of this Court can be exercised in order to bring ends of justice between the parties.

In view of above, petitioner is allowed to compound the offence under Section 147 of the Act. This crl. revision petition is accepted. Impugned judgments and order of sentence are set aside. Petitioner stands acquitted of the charges levelled against him. Normal consequences to follow.

April 19, 2018

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No