

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2786-2018 (O&M)

Date of Decision:-25.10.2018.

Rishi Pal

.....Petitioner

Versus

District Primary Cooperative Agricultural and Rural Development Bank  
Ltd.

.....Respondent

**CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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Present: Mr. Rohit Rana, Advocate for the petitioner.

Mr. Arun Sharma, Advocate for the respondent.

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**P.B. BAJANTHRI, J. (Oral)**

**CRM-30671-2018**

Exemption is granted from filing certified copy of Annexure P-

1. True typed copy/photocopy thereof is taken on record.

CRM stands allowed subject to all just exceptions for the reasons stated in the application as well as affidavit.

**CRR-2786-2018**

In the instant petition, petitioner has sought for quashing of the judgment of conviction dated 21/24.03.2015 passed by JMIC, Karnal in Criminal Compliant No.204 of 2013 titled as **“District Primary Co-operative Agricultural & Rural Development Bank Ltd. Branch Gharaunda, District Karnal through its Branch Manager Vs. Rishi Pal”**

and the judgment dated 07.08.2018 passed by Additional Sessions Judge, Karnal in appeal CNR No.HRKR01-002331-2015 against the judgment/order dated 21/24.3.2015 passed by JMIC, Karnal.

2.) Parties have arrived at compromise and seeking setting aside of the judgments of the Court below on the basis of compromise.

3.) On 07.09.2018, factum of compromise was recorded and direction was given to petitioner to deposit 15% of the cheque amount in the State Legal Service Authority, Haryana and to pay litigation cost of Rs.10,000/- to the complainant. There is compliance to the order dated 07.09.2018. Petitioner furnished photocopy of the receipt dated 11.09.2018 for a sum of Rs.12,600/- in Court. However, respondent is prayed for interest on the aforesaid amount having regard to the date of encashment of cheque to the date of demand draft of Rs.84,000/- @ 15 % per annum.

Hon'ble the Supreme Court issued guidelines in the case titled as **Damodar S. Prabhu Vs. Sayed Babulal H. reported in 2010 (5) SCC 663.** Relevant extract of the judgment reads as under:-

*“21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission,*

*we direct that the following guidelines be followed:-*

**THE GUIDELINES**

*(i) In the circumstances, it is proposed as follows:*

*(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.*

*(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.*

*(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.*

*(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.*

*22. Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or*

*a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority."*

In view of the law laid down in the *Damodar S. Prabhu's* case cited supra, as the petitioner has made payment of cheque amount of Rs.84000/- to the respondent, this petition is allowed and judgment/order of conviction dated 21/24.3.2015 passed by JMIC, Karnal in Criminal Complaint No.204 of 2013 titled as **"District Primary Co-operative Agricultural & Rural Development Bank Ltd. Branch Gharaunda, District Karnal through its Branch Manager Vs. Rishi Pal"** and 7.8.2018 passed by Additional Sessions Judge, Karnal are set aside subject to payment of 8 % interest to the respondent upon the amount of Rs.84,000/- from the date of encashment of cheque till 5.9.2018 within a period of one month from today. Petitioner is acquitted of the charge. CJM/Duty Magistrate/Trial Court is directed to ensure the compliance i.e. ensure the deposit of litigation cost of Rs.10,000/- in view of order dated 07.09.2018 and interest within a period of one month and discharge the bail bond and surety bond of the petitioner, in accordance with law.

**(P.B. BAJANTHRI)**  
**JUDGE**

**October 25, 2018.**  
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.