

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 293 of 2018 (O&M)

Date of decision : 12.2.2018

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Rashmeet Kaur

.....Petitioner

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sudarshan Goel, Advocate for the petitioner.

Mr. Rajeev Sharma, Advocate for respondent No.2.

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H. S. Madaan, J. (Oral)

Counsel for the petitioner has filed CRM-4960-2018 for pre-poning of the main case and for permission to deliver the cheque amount to the opposite party with penalty in terms of judgment reported as **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663**

The application is allowed. The main petition is taken up today.

Main case

M/s Sarvotam Leasing and Real Estates Ltd., 39, Nandra Building, GT Road, Jalandhar, had filed a complaint under Section 138 of the Negotiable Instruments Act, against accused Rashmeet

Kaur, on the allegations that the accused stood as guarantor for repayment of loan taken by her husband Ravinder Singh s/o Surinder Singh for a sum of Rs.1,20,000/-, which Ravinder Singh had agreed to return in installments. However, he defaulted and on being contacted, the accused in her capacity as guarantor for Ravinder Singh and to discharge her financial legally enforceable liability had issued cheque No. 556944 dated 29.9.2012 for a sum of Rs.89,350/- drawn on Bank of Baroda, Mai Hiran Gate, Jalandhar, in favour of the complainant, but on presentation, the cheque was dishonoured due to insufficient funds in account of the accused. On being informed by the bank, the complainant had served a legal notice dated 6.10.2012 upon the accused, but accused failed to make payment of the cheque amount within the stipulated period, as such the complaint was filed.

The accused was summoned. Notice of accusation under Section 138 of the Negotiable Instruments Act was served upon him, to which she pleaded not guilty and claimed trial.

The complainant led the evidence, oral as well as documentary. Thereafter, statement of the accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against such accused were put to her but she denied the same and pleaded false implication. The accused led evidence in defence.

After hearing the arguments, the trial Magistrate, vide impugned judgment dated 6.6.2014, convicted the accused for offence under Section 138 of the Negotiable Instruments Act and vide

order of even date he was sentenced to undergo rigorous imprisonment for 3 months and to pay a fine of Rs.3,000/-, in default of payment of fine to further undergo simple imprisonment for 15 days.

The accused-convict feeling aggrieved by the said judgment had filed an appeal before the Court of Sessions, which was however dismissed by the Additional Sessions Judge, Jalandhar vide judgment dated 16.1.2018. Therefore, she has come to this Court by way of filing the present revision petition.

The complainant-respondent No.2 has appeared through counsel.

Notice of motion to respondent No.1 – State.

On the asking of the Court, Mr. Ramandeep Sandhu, Senior Deputy Advocate General, Punjab has accepted notice on behalf of respondent No.1-State.

The matter has been compromised between the parties. This factum is admitted by the complainant, who has appeared in the Court. An affidavit has been placed on file on behalf of the complainant, wherein it has been stated that the complainant has received full and final payment from Rashmeet Kaur towards the cheque/loan and all dues against her stand settled.

The 15% of the cheque amount has been deposited with High Court Legal Service Committee, in view of the authority in **Damoder S. Prabhu's case (Supra).**

The offence under Section 138 of the Negotiable Instruments Act is compoundable. Under Section 320 (6) Cr.P.C., compounding

of such offence could be allowed in revision also. Therefore, the criminal revision petition is accepted, the impugned judgments passed by the courts below are set aside, resultantly, the accused is acquitted of the notice of accusation served upon her.

The petitioner is stated to be in jail in this case. She is ordered to be released immediately, if her custody is not required in connection with any other case.

12.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes/ No
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Whether reportable	Yes/ No
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