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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRR No. 3604 OF 2018(O&M)

Date of Decision: 14.12.2018

Jagsir Singh

.....Petitioner

versus

Sukhpal Singh

.....Respondent

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr.Deepak Aggarwal, Advocate for the petitioner.
Mr.Sandeep Sharma, Advocate for respondent.

MAHABIR SINGH SINDHU, J

Present revision petition has been filed against the impugned judgment dated 16.07.2018, passed by learned Additional Sessions Judge, Bathinda, whereby appeal filed by the petitioner against his conviction and sentence recorded by learned Judicial Magistrate Ist Class, Bathinda vide judgment and order dated 08.12.2016 has been dismissed.

Dispute is regarding dis honour of the cheque No.640568 dated 26.05.2015 for an amount of ₹ 1,12,000/-, which resulted into filing of the complaint under Section 138 of the Negotiable Instrument Act, 1881 by the respondent against the petitioner.

During the pendency of the present petition, both the parties have settled the issue and compromised the matter. This Court on 30.10.2018 relegated the parties to get their statements recorded before Mediation and Conciliation Centre of this Court. In pursuance thereof, statements of both the parties have been recorded and report has been sent by the Mediator which read as under:-

“Statement of Jagsir Singh, s/o Balbir Singh, r/o

village Gobind Pura, Tehsil and District Bathinda.

I have entered into compromise with Labh Singh SPA of Sukhpal Singh – respondent and have paid the entire payment subject matter of the present complaint under Section 138 of Negotiable Instruments Act.

Statement of Labh Singh, s/o Hira Singh, r/o village Dhan Singh Thana, Tehsil and District Bathinda, SPA of respondent Sukhpal Singh son of Labh Singh

I being SPA of my son Sukhpal Singh, have entered into compromise with the petitioner Jagsir Singh and have received the entire payment subject matter of the present complaint under Section 138 of Negotiable Instruments Act. I have no objection in case the petitioner Jagsir Singh is acquitted.”

Report of Mediator

“Statements of Jagsir Singh – petitioner and Labh Singh – SPA of respondent Sukhpal Singh have been recorded separately. Hence, the case file be sent back to the Hon'ble Court.”

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 and the same is no more res integra. The Hon'ble Supreme Court in case '**K. Subramanian Versus 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. ”

On the last date of hearing, petitioner was asked to deposit 15% of amount over and above the cheque amount in terms of judgment passed by Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H, 2010(5) SCC 663.**

Today, during the course of hearing, receipt no.283 dated 03.12.2018 for an amount of ₹ 16,800/- has been produced and taken on record marked as X. The parties have settled the issue and no grievance is left against each other.

Still further, once it is proved on record that the parties have compromised the matter and the petitioner/convict has already made the entire payment along with 15% extra in favour of Legal Services Authority, then as per law laid down by the Hon'ble Supreme Court in case **'Damodar S. Prabhu Versus Sayed Babalal H., 2010(5) SCC 663,** 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 for compounding of the matter and the same is covered by the ratio of law laid down in the judgments of the Hon'ble Supreme Court in the cases, referred above.

In view of the compounding of offence as contemplated under Section 147 of the Act and Section 320(8) Cr.P.C., application bearing CRM No.38443 of 2018 for compounding of the offence punishable under Section 138 of the N.I. Act on the basis of compromise arrived at between the parties and the present revision petition are allowed and the impugned judgments

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dated 16.07.2018 and 08.12.2016 passed by learned Additional Sessions Judge and learned Judicial Magistrate Ist Class, Bathinda respectively are set aside and the petitioner is acquitted of the charge framed against him by the learned trial Court.

14.12.2018 mamta	(MAHABIR SINGH SINDHU) JUDGE
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No