

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

CRR-414-2018

Date of decision: 17.02.2018

Balram Yadav

... Petitioner

versus

State of Haryana and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE H.S.MADAAN

Present: Mr. Amardeep Sheoran, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Ms. Bhavna Grewal, Advocate for
Mr. J.P.Jangu, Advocate
for respondent No.2/complainant.

H.S.Madaan, J(Oral)

Complainant – Vikas Yadav had brought a complaint under Section 138 of the Negotiable Instruments Act, 1881 against accused Balram Yadav on the allegations that the accused in order to discharge his legal liability towards him had issued two cheques one bearing No.797112 dated 21.12.2015 for a sum of Rs.3 lakhs and the other bearing No.797115 dated 04.01.2016 for a sum of Rs.4 lakhs, both drawn on Canara Bank, Rewari in his favour. However, on presentation, the said cheques were dishonoured due to insufficiency of funds in the account of accused vide memos dated 06.01.2016, 18.01.2016 and 25.02.2016 respectively. The complainant had served a legal notice upon the accused through his counsel by way of registered post on 19.03.2016 but accused failed to pay the amount of cheques within stipulated time as complaint was filed.

On being summoned, the petitioner put in appearance. He was tried and convicted under Section 138 of the Negotiable Instruments Act and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a compensation amounting to Rs.5 lakhs for the cheque bearing no.797112 issued on 21.12.2015 amounting to Rs.3 lakhs and further to pay compensation of Rs.6 lakhs for the cheque bearing No.797115 issued on 04.01.2016 amounting to Rs.4 lakhs to the complainant. It was directed that in the case of non-payment of compensation, the convict would further undergo simple imprisonment for a period of six months. The compensation was not paid.

Feeling aggrieved by the judgment of conviction and order of sentence passed by Addl. Judicial Magistrate dated 16.02.2017, the accused had preferred an appeal in the Court of Sessions but that appeal was dismissed by Addl. Sessions Judge, Rewari vide judgment dated 05.01.2018. As such, the accused filed a revision petition before this Court notice of which was given to the complainant.

Complainant had appeared through counsel Sh. J.P.Jangu, Advocate. He had admitted the factum of compromise between the parties. 15% of the cheque amount i.e. Rs.1,05,000/- has been deposited by the revision petitioner in the High Court Legal Services Committee, Chandigarh. Original receipt in that regard has been placed on record.

Offence under Section 138 of the Negotiable Instruments Act is compoundable. Under Section 320(6) of Cr.P.C. compounding of offence can be allowed at the stage of revision petition also.

Thus, in view of the compromise having been arrived at between the parties, the revision petition is accepted, the impugned

judgments passed by the Courts below against the revision petitioner-convict are set aside and the accused is acquitted of the notice of accusation served upon him. He be released from custody immediately, if any, not required in any other case.

17.02.2018
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(H.S.MADAAN)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No