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

CRR No.522 of 2018 (O&M)
Date of Decision: 20.02.2018

Ved Parkash

...Petitioner

Vs

State of Haryana and another

.....Respondents

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

Present: Mr. Navmohit Singh, Advocate,
for the petitioner.

Mr. Satish Saini, D.A.G., Haryana.

Mr. Abhinav Sood, Advocate,
for respondent No.2.

RAJ MOHAN SINGH, J.(Oral)

1. This revision petition has arisen from concurrent orders passed by the Courts below convicting and sentencing the petitioner for the offence under Section 138 of the Negotiable Instruments Act.

2. Petitioner has been sentenced to undergo simple imprisonment for six months. He was further directed to pay compensation of Rs.3 lacs to the complainant under Section 357 Cr.P.C.

3. The lower Appellate Court had released the petitioner on bail with a direction to the petitioner that he will deposit an

amount of Rs.1 lac out of the compensation before the trial Court but the petitioner neither deposited the compensation before the trial Court and even failed to appear before the lower Appellate Court on 15.02.2017. Non-bailable warrants were issued. Ultimately, appeal was dismissed for want of prosecution vide judgment dated 22.05.2017.

4. In the present revision petition, an application under Section 482 Cr.P.C. read with Section 147 of Negotiable Instruments Act has been moved for compounding of offence under Section 138 of Negotiable Instruments Act on the basis of compromise between the parties.

5. According to compromise dated 12.01.2018, petitioner has already paid an amount of Rs.1,85,000/- to the complainant.

6. Notice of motion was issued on 09.02.2018.

7. Learned counsel for complainant/respondent No.2 admits the factum of compromise. He has also admitted that though cheque amount was of Rs.2,05,000/- but compromise was effected for a lumpsum amount of Rs.1,85,000/-. Since, lumpsum amount has already been received by the complainant, therefore, he has no objection in case this revision petition is disposed of in terms of compromise and the petitioner may be sentenced to undergo for the period already undergone

by him.

8. Learned counsel for the complainant has no objection in case 15% of the cheque amount towards costs of litigation is waived off as he has received the payment in lumpsum.

9. Learned counsel for the petitioner has submitted that the petitioner is a marginal labourer doing work of Barber under a tree and therefore, payment of 15% of the cheque amount towards costs of litigation be waived off in terms of **Damodar S. Prabhu vs Sayed Babalal H., AIR 2010 (SC) 1097.** He further relied upon **Kaushalya Devi Massand vs Roopkishore Khore, 2011 (2) RCR (Criminal) 298** and submitted that revisional jurisdiction of the High Court can be invoked in order to bring ends of justice between the parties and exercise of such powers would be in consonance with the spirit of Section 147 of Negotiable Instruments Act.

10. The provision in terms of Section 138 of Negotiable Instruments Act is based on compensatory mechanism, therefore, the petitioner can be enlarged against the period which he has undergone till date.

11. A lumpsum payment has already been paid to the satisfaction of the complainant and the learned counsel for the complainant has no objection in case payment of 15% of the cheque amount towards costs of litigation is waived off.

12. Learned counsel relied upon **Lalit vs Tek Chand and another**, Civil Revision No.1877 of 2017 decided on 31.05.2017.

13. In view of above, this revision petition is disposed of on the basis of compromise. The sentence of the petitioner is modified for the period already undergone by him. Petitioner is ordered to be released forthwith if not required in any other case.

14. Since the entire amount has been paid in one go and the imposition of costs would be a matter of discretion, I deem it appropriate to wave off the condition of imposing 15% of the cheque amount, in the event of compromise arriving at between the parties.

20.02.2018

jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No