

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

**Criminal Revision No.6 of 2018 (O&M)
Date of Decision : 11.12.2018**

Raj Kumar

.....Petitioner

Versus

M/s Paraglobal Finance Co. (Regd.)
through its Partner-Ajit Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. S.K.Choudhary, Advocate for the petitioner.

Mr. S.K.Arya, Advocate for the respondent.

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MAHABIR SINGH SINDHU, J.

Present revision petition has been filed against the impugned judgment dated 21.12.2017, passed by learned Additional Sessions Judge, Gurdaspur, vide which, appeal filed by the petitioner against the judgment and order of sentence dated 27.07.2016, passed by learned Judicial Magistrate 1st Class, Batala, whereby, he was convicted for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N.I. Act'*) and sentenced to undergo rigorous imprisonment for a period of one year with fine of ₹ 1000/- with default clause, to further undergo imprisonment for one month, has been dismissed.

This Court, while issuing notice of motion on 09.01.2018, passed the following order:-

“ It is stated that after the decision of the complaint resulting in conviction of the accused and dismissal of appeal by Additional Sessions Judge, Gurdaspur, the matter has been compromised. The written compromise in that regard has been placed on the file, besides affidavit of the complainant.

Notice of motion for 21.2.2018.

At this stage, Mr. S.K. Arya, Advocate has put in appearance on behalf of the complainant filing vakalatnama. He admits the matter having been compromised between the parties.

An application for suspension of sentence during pendency of the revision petition has been filed, which is not being opposed by the counsel for the complainant.

Under these circumstances, the petitioner is ordered to be released on bail subject to his furnishing of personal and surety bonds to the satisfaction of the trial Magistrate.

The parties are directed to appear before the trial Court within 15 days from today, so as to get their statements recorded regarding compromise. The trial Court is to ensure that the statements of the complainant as well as accused, are recorded and then to report whether it has been so done voluntarily, without any threat or coercion. The trial Court is to further report regarding genuineness of the compromise. It be also reported whether any of the parties has been declared proclaimed offender. Report in that regard alongwith statements in original be sent to this Court by the next date of hearing.

Lower court record be also summoned for the date fixed.”

Today, this Court has been apprised that in pursuance of the above order, 15% of the cheque amount i.e. ₹ 29,625/- has been deposited before the High Court Legal Services Committee, vide receipt No.223023 dated 14.11.2018.

The above factual position regarding payment is duly acknowledged by learned Counsel for respondent No.1.

Heard learned Counsel for the parties and perused the paper-book.

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. ”

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., the present revision petition is allowed. The impugned judgments of conviction and orders of sentence, passed by both the Courts below, are set aside and the petitioner/convict is acquitted of the charges.

December 11, 2018
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No