

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-799-2018 (O&M)

Date of Decision:-28.08.2018.

M/s Vazir Poultry Farm and another

.....Petitioners

Versus

M/s Jai Shree Feeds and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Karan Singh, Advocate for the petitioners.

Mr. Rahul Singla, Advocate for respondent No.1.

Mr. Ashish Sanghi, DAG, Haryana.

Mr. Paramjeet Singh, Complainant in person.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioners have sought for quashing of judgment dated 23.1.2018 whereby the appeal filed by them against the judgment/order of Conviction dated 22/27.03.2017 passed by Judicial Magistrate Ist Class, Ambala has been dismissed vide which petitioner-Malkhan Singh was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months and to pay compensation of ₹ 7,30,350/- and in default of payment of compensation to further undergo simple imprisonment for 3 months.

09.08.2018 has been complied by depositing a sum of Rs.15000/- vide receipt No.0002054 dated 14.08.2018.

3.) During pendency of the present revision petition, compromise has been effected between the parties. Both the counsel for the parties submitted that whatever the dues to the complainant on behalf of the petitioner have been settled along with interest and litigation cost. Thus, parties sought permission to compound the offence and consequential proceedings.

4.) Insofar as the compounding of offence in such matter, Hon'ble the Supreme Court issued guidelines in the case titled as **Damodar S. Prabhu Vs. Sayed Babulal H. reported in 2010 (5) SCC 663.** Relevant extract of the judgment reads as under:-

“21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that

the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

22. Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with

composition before the Supreme Court should be deposited with the National Legal Services Authority."

In view of the law laid down in the *Damodar S. Prabhu's* case cited supra, as the petitioners have settled the matter by making payment, parties are permitted to compound the offence. Therefore, this petition is allowed; judgment dated 23.01.2018 passed by Additional Sessions Judge, Ambala and judgment/order of sentence dated 22/27.03.2017 passed by Judicial Magistrate Ist Class, Ambala are set aside subject to deposit of 15% of the cheque amount in the State Legal Services Authority, Haryana within a period of 2 months from today. Accused be released on the compliance of above direction, if he is not required in any other case.

5.) Copy of this order be sent to the Trial Court as well as Chief Judicial Magistrate for compliance.

(P.B. BAJANTHRI)
JUDGE

August 28, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.