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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 965/2016

BHAWISH CHAND SHARMA Appellant

Through: Mr. A.C. Singhal and Ms. Meenakshi
Singhal, Advocates

versus

BAWA SINGH Respondent

Through: Mr. M.N. Dudeja, Advocate with Mr.
Anuj Chauhan, Advocate with
respondent in person.

CORAM:
HON'BLE MR JUSTICE VIPIN SANGHI

ORDER
18.07.2018

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Crl. M.A. No. 12836/2018

The respondent was convicted under section 138 of the Negotiable Instruments Act (NIA) vide judgment pronounced on 09.07.2018. Today, the matter was fixed for the purpose for hearing learned counsels on the aspect of sentencing. In the meantime, the present application has been moved jointly by the parties to seek permission to compound the offence on the basis of their compromise deed arrived at between them on 11.07.2018.

The compromise deed is Annexure-A to the application. It bears the signatures of the appellant as well as the respondent. Both the parties are

present in court. It is stated that they have arrived at the said settlement out of their own free will and accord. They further state that they have abided by the terms and conditions of the said settlement. An amount of Rs.5 lakhs stands paid to the appellant by the respondent by pay order dated 11.07.2018 bearing No.774490 drawn on Bank of Baroda.

Learned counsel for the respondent and the respondent states that in terms of the settlement, they have settled the case arising out of FIR No.101/2009 registered at PS Jyoti Nagar before Deepti Devesh, MM-04, Shahdara, Karkardooma Courts, Delhi on 12.07.2018. A copy of the said order acquitting the appellant herein has been tendered in court and is taken on record.

Mr. Dudeja further submits that by way of abundant caution, on his request, that this court may quash the FIR itself in exercise of its jurisdiction under Article 226 of the Constitution of India and Section 482 Cr PC.

Mr. Dudeja has also brought to the notice of this court the judgment rendered by this Court in *V.S. Yadav v. Reena*, (2014) 207 DLT (CA 9A) 9, which deals with the aspect of compounding of the offence under Section 138 of NIA, under Section 147 of the said Act. The said decision follows the Supreme Court judgment in *Damodar S. Prabhu v. Sayed Babalal H*, AIR 2010 SC 1907.

In view of the aforesaid, the application is allowed. The respondent stands acquitted in the present case and the FIR No.101/2009 registered at PS Jyoti Nagar stands quashed. In terms of the judgment of the Supreme Court in *Damodar S Prabhu* (supra), the respondent is subjected to costs of Rs.75,000/-

- that being 15% of the cheque amount. He shall deposit the said costs in the Delhi State Legal Services Authority within the next four weeks.

A copy of the receipt issued by Delhi State Legal Services Authority shall be provided to the appellant and the original shall be filed on record in this case. In case the receipt is not filed, the registry is directed to list the matter after four weeks.

The application stands disposed of.

VIPIN SANGHI, J

JULY 18, 2018

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