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

+ CRL.M.C. 2519/2015 and CrI.M.A.8765/2015

SHYAM CHOUHAN

..... Petitioner

Through: Petitioner in person.

versus

SUDHIR SHARMA & ANR

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Ichha Ram, PS Tilak
Marg.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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07.09.2018

On the criminal complaint (CC No.99/2013) of the first respondent the petitioner was tried for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 by the Metropolitan Magistrate. The trial court, by its judgment dated 07.08.2013, found the petitioner guilty and convicted him on the said charge. By subsequent order dated 17.08.2013, the petitioner was sentenced to simple imprisonment for four months with fine of Rs.3,50,000/- to be paid as compensation to the complainant.

It appears, the petitioner had challenged the said judgment and order on sentence of the trial court in the court of Sessions by Criminal Appeal No.62/2013. By judgment dated 05.03.2014, the first appellate court maintained the order of conviction but reduced the rigour of sentence by

modifying the fine amount to Rs.2,25,000/-. The petitioner not having made the payment was taken in custody to serve the sentence.

On 08.05.2015, the petitioner through his *pairokar* Mr. Ashok Kumar entered into a compromise with the complainant in terms of which the complainant agreed to compound the offence under Section 138 of the N.I. Act, 1881 upon payment of Rs.1,25,000/-. The Compromise Deed (Annexure P-3) filed on record would show that Rs.25,000/- was paid at the time of execution of the said document, the balance Rs.1,00,000/- to be paid at the time of hearing on the petition at hand. The complainant had sworn an affidavit dated 29.05.2015 to this effect which was also filed with the petition at hand invoking power under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) with the prayer that the conviction be set aside and the offence be allowed to be compounded.

Notice of the petition was issued, *inter alia*, to the first respondent (the complainant). The proceedings recorded on 14.07.2016 show that the complainant had appeared in person and had affirmed to the court upon inquiry that he had already received the payment of Rs.1,25,000/- in terms of the compromise.

The offence under Section 138 of the Negotiable Instruments Act, 1881 is compoundable in view of the provision contained in Section 147 of the said Act.

Having regard to the above, the complainant having been satisfied with the money duly paid in terms of the compromise, the offence is treated as having been lawfully compounded. Consequently, the order of conviction

and sentence as recorded by the trial court and as affirmed by the first appellate court stand vacated.

The petition is disposed of in above terms.

This disposes of the pending application as well.

R.K.GAUBA, J.

SEPTEMBER 07, 2018

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