

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

CRR No. 409 of 2019 (O&M)

Date of decision: 02.04.2019

Balwinder Singh

...Petitioner

Versus

Inderjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Ms. Swati Verma, Advocate
for the petitioner.

Mr. H. S. Batth, Advocate
for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Prayer in this petition is for setting aside the impugned judgment of conviction and order of sentence dated 15.09.2015, passed by learned trial Court, wherein the petitioner was held guilty for commission of 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 and to pay a fine of ₹2,000/- with default clause; as well as the judgment dated 28.01.2019, whereby the appeal filed by the petitioner has also been dismissed.

Brief facts of the case are that respondent/complainant-Inderjit Singh filed a complaint under Section 138 of the N. I. Act with the allegations that he sold the *Sarees* (Garments) to present petitioner/accused-Balwinder Singh through different bills, regarding which he had maintained the account in books of account. Petitioner/accused, in order to discharge

the existing legal liability, issued a cheque bearing No. 881508 dated 15.11.2012 for ₹1,50,000/-, drawn on Bank of Maharashtra, B-16/345, Link Road, Ludhiana, in favour of the respondent/complainant, but on presentation, the same was dishonoured with the remarks "Funds insufficient", vide memo dated 08.12.2012. Respondent/complainant served a legal notice calling upon the petitioner to pay the cheque amount, however, the same was not paid within the stipulated period of 15 days from the receipt of the legal notice. Consequently, complaint under Section 138 of the N.I. Act was filed, wherein the petitioner was convicted and sentenced as noticed above. Aggrieved against the judgment of conviction and order of sentence, the petitioner preferred an appeal, however, the same was also dismissed. Hence, the present revision petition.

During the pendency of the present petition, on 11.03.2019, learned counsel for the parties were *ad idem* that the matter has been amicably settled and keeping in view the said fact, the sentence of the petitioner was suspended and this Court referred the matter to Mediation and Conciliation Centre for recording the statements of both sides regarding compromise.

In compliance with the aforesaid order, parties appeared before the Mediation and Conciliation Centre of this Court and a settlement/agreement dated 14.03.2019 has been arrived at between them and operative part of the same reads as under:

6."a) The first party has agreed to make a payment of Rs.1,75,000/- (Rupees One Lac and Seventy Five Thousand only) to the second party as full and final payment towards the settlement of cheque dispute between them, which the

second party has agreed and accepted the same. The amount of Rs.1,75,000/- (Rupees One Lac and Seventy Five Thousand only) will be paid in the following manner:-

(i) The first party has paid an amount of Rs.50,000/- (Rupees Fifty Thousand) by way of Demand Draft No.227062 dated 13.03.2019, to the second party today in the Mediation Centre.

(ii) The first party will pay a sum of Rs.40,000/- (Rupees Forty Thousand) to the second party as a second installment by way of Demand Draft on or before 15.04.2019.

(iii) The first party will pay a sum of Rs.40,000/- (Rupees Forty Thousand) to the second party as a third installment by way of Demand Draft on or before 15.05.2019.

(iv) The first party will pay a sum of Rs.45,000/- (Rupees Forty Five Thousand) to the second party as fourth and final installment by way of Demand Draft on or before 15.06.2019.

b) It has been mutually agreed between the parties that the second party shall have no objection if Criminal Revision Petition No.409 of 2019 filed by the first party is allowed by the Hon'ble High Court after making the full payment. The second party undertakes to make a statement/file an affidavit in the Court on the date fixed, if required.

c) The parties further undertake not to initiate or institute any unwanted litigation against each other and their family arising out of the matter in dispute.

d) As per knowledge of both the parties, there is no other pending litigation between the parties qua the present dispute. It has been further agreed between the parties that in case of coming into knowledge of any petition or case filed by any of the parties against other, the same shall be withdrawn by either of the party who has filed it.

e) This compromise has been arrived at between the

parties without any pressure, undue influence or misrepresentation and both the parties have agreed to abide by the terms and conditions of the agreement. Both the parties shall be bound with the terms and conditions of this compromise.”

Learned counsel for the respondent/complainant has acknowledged the fact that as per the settlement, the first installment of ₹50,000/- has already been received and the balance amount of ₹1,25,000/- shall be paid by the petitioner as per terms and conditions of the settlement. He has further submitted that respondent/complainant has no objection if the present revision petition is allowed and petitioner is acquitted of the charges under Section 138 of N.I. Act. .

In view of the above factual position, it is jointly submitted by learned counsel for the parties that the present petition may be allowed and the offence be compounded.

After hearing both the parties and considering the fact that they have amicably settled the dispute and no other litigation is pending between them, the permission is granted to compound the offence under the provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in ***Criminal Appeal No. 1980 of 2017, Sri Ashish Subba vs. Manoj Kumar Agarwal and another***, decided on 17.11.2017 that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

In view of the facts and circumstances discussed herein above, the revision petition is allowed; impugned judgment of conviction and order

of sentence dated 15.09.2015, passed by the trial Court as well as the judgment dated 28.01.2019, passed by learned Additional Sessions Judge, are set set aside. Petitioner is acquitted of the charges framed against him under Section 138 of the N. I. Act in Criminal Complaint No. 62 of 14.01.2013.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement arrived at between them.

02.04.2019
Shabha

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>