

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

CRR No.465 of 2019 (O&M)
DATE OF DECISION : 30th OCTOBER, 2019

Sahib Singh

.... Petitioner

Versus

Vijay Kumar

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. M. S. Dhillon, Advocate for
 Mr. Tarun Sharma, Advocate for the petitioner.
 Mr. Balbir Kumar Saini, Advocate for the respondent.

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RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition challenging the judgment dated 12.02.2019 passed by learned Additional Sessions Judge, Ferozepur whereby, the appeal filed by the present petitioner was dismissed and the judgment of conviction and order of sentence dated 25.05.2018 under Section 138 of the Negotiable Instruments Act, passed by Judicial Magistrate Ist Class, Guruharsahai, in Case No.133-2 dated 27.07.2015/19.05.2016, sentencing the petitioner - Sahib Singh to undergo rigorous imprisonment for a period of one year and to pay fine of ₹2000/-, was upheld.

During the pendency of the present petition, the parties appeared to have compromised the matter. Therefore, a prayer was made by counsel for the petitioner, to send the parties to the trial Court/ Illaqa Magistrate to get their statements recorded qua the compromise arrived at between the parties.

Since by pleading compromise, the petitioner had sought compounding of the offence punishable under Section 138 of the Negotiable Instruments Act, this court vide order dated 26.02.2019 directed the parties to appear before the learned trial Court/Illaq Magistrate, for getting their statements recorded; as to the genuineness of the compromise with a further direction to the trial Court/Illaq Magistrate for submitting a report whether the compromise is without any pressure or not.

In compliance of the order dated 26.02.2019, report of Judicial Magistrate Ist Class, Gurhar Sahai, dated 15.03.2019, has been received, wherein, it has been noticed that the matter has been compromised and the compromise has been effected with their free consent and without any pressure or undue influence from any quarter.

Counsel for the petitioner submits that since the matter has been amicably settled between the parties, therefore, the parties may be permitted to compound the offence; and by setting aside the judgments/orders passed by the Courts below, the petitioner be ordered to be acquitted of the charges.

Mr. Balbir Kumar Saini, Advocate appearing on behalf of the respondent/complainant, does not dispute the compromise arrived at between the parties. He has expressed his no objection for compounding of the offence as prayed by counsel for the petitioner.

The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal

system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.

However, more often than not the civil disputes or inter-se conflicts of two parties transform themselves into criminal aspect. Therefore, the legal system plays a role to resolve the conflict between two parties; with the added task of ensuring that the adverse impact of dispute on society at large is minimized. But still the core idea is to resolve the conflict between two sides by putting it to rest. Therefore, even the criminal law is required to give due regard to the wishes of the parties to dispute. Recognizing this principle only, the Indian legal System also provides for recognizing the compromise between two sides of a criminal dispute. Section 320 Cr.P.C. is an express provision in this regard. This section not only provides for compounding during the trial, but permits compounding even at appellate or revisional stage. However by its very nature and scope, Section 320 Cr.P.C. cannot be the sole repository; wherein the recognition to a compromise between the parties have; necessarily; to be confined. This section relates only to the offences prescribed under the Indian Penal Code. There are a lot more offences

prescribed outside IPC. Even to the offences existing in the IPC new dimensions are added from time to time, making the existing offences to be lighter or stringent and even new modalities of proof of offences are being recognised in view of technological advancement. This necessitates and requires the need for looking beyond Section 320 Cr.P.C. to recognise the compromise between the parties to dispute. But to maintain the sanctity of the procedure prescribed for criminal trial; the Trial Court cannot be permitted to travel beyond the scope prescribed under that procedure. Hence the need for invoking Section 482 Cr.P.C. by the High Court.

So far as offence under Section 138 of NI Act is concerned, even the NI Act specifically permits the compounding of offence at any stage.

Since the parties have agreed for compounding the offence at the stage of Revision, therefore, the petitioner is required to deposit the compounding charges in terms of judgment of the Supreme Court in the case of **Damodar S. Prabhu v. Sayed Babalal H., 2010 AIR (SC) 1907**. However, since the cheque amount is only ₹90,000/-, therefore this Court deems it appropriate to waive of the payment of compounding charges by the petitioner.

Accordingly, the present revision petition is allowed. Necessary permission for compounding of offence under Section 138 of the Negotiable Instruments Act, for which the petitioner was convicted and sentenced by the trial Court, is granted. As a result of compounding, the judgment of conviction and order of sentence dated 25.05.2018 under Section 138 of the Negotiable Instruments Act, passed by Judicial

Magistrate Ist Class, Guruharsahai, in Case No.133-2 dated 27.07.2015/19.05.2016, sentencing the petitioner- Sahib Singh; and judgment dated 12.02.2019 passed by learned Additional Sessions Judge, Ferozepur, are set aside and the petitioner stands acquitted of the charge levelled against him.

30TH OCTOBER, 2019
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>