

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

284

CRR-832-2019 (O&M)

DATE OF DECISION: 26.09.2019

RAJINDER KUMAR

... Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Anirudh Kush, Advocate
for the petitioner(s).

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

Mr. R.P. Daaria, Advocate for respondent No.2.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the judgments of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act') and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/-.

Learned counsel for the petitioner contends that the allegation against the petitioner is that the cheque issued by the petitioner for a sum of Rs.1,98,000/- on 20.06.2007 was stated to have been dishonoured on account of insufficient funds. He further states that

the matter has been compromised and he has paid the entire amount to the complainant in terms of his statement. Learned counsel for the petitioner states that in the light of the judgment of the Supreme Court in case of Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663 the sentence of the petitioner may be compounded. He also states that the petitioner is facing financial difficulty and is also suffering from neurological problem, therefore, the costs be reduced.

Learned counsel for the complainant states that the matter has now been compromised and he has no objection if the offence of the petitioner is compounded.

Heard.

The offence under Section 138 of the Act is compoundable even at this stage in the light of the judgment of the Supreme Court in case of Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663. The petitioner has been convicted under Section 138 of the Act. As the dispute has been settled by the parties as the petitioner has repaid the entire loan amount which includes the cheque amount to the respondent, it would be in the interest of justice, if the offence is compounded under Section 147 of the Act. The liability under Section 138 of the Act is civil in nature and in case the parties have arrived at compromise, the same should be accepted to give quietus to the litigation.

Consequently, the petition is allowed. The judgment and order of sentence dated 28.04.2012 passed by the trial Court and the judgment dated 09.09.2016 passed by the Appellate Court, are set aside. The petitioner is acquitted of the charges framed against him. The petitioner be released forthwith, if he is not required in any other case.

The petitioner is directed to pay Rs.10,000/- as cost to the Punjab Legal Services Authority.

26.09.2019*SwarnjitS***(ANUPINDER SINGH GREWAL)****JUDGE****Whether speaking/reasoned: : Yes / No****Whether reportable : Yes / No**