

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23470-2018

Date of Decision : March 07, 2019

M/s Tax Crop. Ltd.

.... Petitioner

Versus

M/s Adigear International and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. V.B. Aggarwal, Advocate,
for the petitioner.

Mr. G.S. Bedi, Advocate,,
for the respondents.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for setting aside order dated 14.05.2018 (Annexure P/5) passed by learned Judicial Magistrate Ist Class, Gurugram whereby plea of compounding of offence under Section 147 of the Negotiable Instruments Act, 1881 (for short, "**the Act**") has been accepted.

2. Arguments heard.

3. Facts relevant for the purpose of decision of the present petition; petitioner herein as complainant filed a complaint (Annexure P/2) under Section 138 of the Act before learned Magistrate. The original complaint was filed with the averments that total outstanding amount

...

against accused-persons was R.17,93,677.80, and a suit for recovery was filed and the matter was referred to Mediation Centre. In discharge of the liability, accused Nos. 2 to 4 issued cheque Nos. 200347 and 200349 dated 10.7.2014 and 10.09.2014 for the sum of Rs.1,00,000/- each. Subsequently, both the above mentioned cheques were dishonoured for insufficiency of funds.

4. The only grievance of the petitioner is that actual liability of the accused persons is much more than the cheque amount involved in the case. Plea was also taken before learned Magistrate that provision of compounding would be applicable only as regard to cheque amount involved in the complaint and the complainant was not entitled to recover the remaining amount through the compounding.

5. While passing the impugned order dated 14.05.2018 (Annexure P/5), learned Magistrate has rightly placed reliance upon judgment from Hon`ble Apex Court in **M/s Meters and Instruments Vs. Kanchan Mehta**, Criminal Appeal No. 1731 of 2017, decided on 05.10.2017 where Hon`ble Apex Court explained the importance of compounding of offence under Section 138 of the Act and payment of interest and compensation to the complainant. Hon`ble Apex Court also observed that proceedings under Section 138 of the Act are quasi criminal proceedings and compounding could be done even in the absence of consent of the complainant, if the Court is satisfied that he has been duly compensated.

6. Law on the point is also settled that the Court is to consider dishonour of cheque(s) only which are subject matter of the complaint. The Court cannot enforce compounding of cheques which were not presented

...

by the complainant for encashment. Learned Magistrate has rightly passed the order thereby compounding the offence and at the same time directed the accused to make payment of Rs.2,00,000/- (i.e., total cheque amount) plus Rs.20,000/- as litigation expenses and allowing 6% interest upon the cheque amount. The said order has been passed in the spirit of Section 147 of the Act and as per view taken by Hon`ble Apex Court in **Kanchan Mehta's case (supra)** and the same does not call for any interference by this Court.

7. Resultantly, the present petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

March 07, 2019

som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes