

**S.No.254**

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

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**CRR No.643 of 2019 (O&M)**

**Date of Decision:13.05.2019**

**Mr. Sukhpal Singh                      ....Petitioner**

**Vs.**

**State of Punjab and ors.              ....Respondents**

**CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present:-     Mr. S.S. Sodhi, Advocate  
                     for the petitioner.

Mr. Prabhjot Singh Walia, AAG,  
Punjab.

Mr. Kamal Singh, Advocate for  
LRs of complainant/ respondent.

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**Rajbir Sehrawat, J.(Oral)**

This is a revision petition challenging the judgment/order dated 05.03.2019 passed by learned Additional Sessions Judge, Patiala, whereby, the appeal filed by the present petitioner was dismissed and the judgment of conviction and order of sentence dated 07.06.2017, under Section 138 of the Negotiable Instruments Act, passed by Sub Divisional Judicial Magistrate, Nabha in Criminal Complaint No.76 dated 15.03.2013, sentencing the petitioner to rigorous imprisonment for a period of one year and six months and to pay compensation equivalent to the cheque amount, 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. Accordingly, vide order dated 15.03.2019, the parties were directed to appear before the learned trial Court/Illaqa Magistrate, for getting their statements recorded; as to the genuineness of the compromise with a further direction to the trial Court/ Illaqa Magistrate for submitting a report whether the compromise is without any pressure or not. Since by pleading compromise, the petitioner had sought compounding of the offence punishable under Section 138 of the Negotiable Instruments Act.

In compliance of the order dated 15.03.2019, report of Judicial Magistrate Ist Class, Nabha, dated 04.05.2019, has been received, wherein, it has been noticed that the matter has been compromised with the intervention of respectables of village and the compromise has been effected with their free consent and without any pressure or undue influence from any quarter.

Although the quashing of the proceedings is being done at the stage of revision against conviction and sentence under Section 138 of NI Act and as per the judgment of the Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H. 210 AIR (SC) 1907**, the petitioner is required to deposit the compounding charges as well, however, this Court finds that the petitioner is an ex-serviceman, therefore, he can be permitted to avail the lenient view in the matter of deposit of the compounding charges. Accordingly, the payment of compounding charges is waived of in this case.

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. Kamal Singh, 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 then not the civil disputes or inter-se conflicts of two parties transforms themselves into criminal aspect. Therefore, the legal system plays empire to resolve the conflict between two parties; with the added task of ensuring that the adverse impact of dispute qua 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 permits the compounding of offence at any stage.

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 07.06.2017 passed by under Section 138 of the Negotiable Instruments Act, passed by Sub Divisional Judicial

Magistrate, Nabha in Criminal Complaint No.76 dated 15.03.2013, and the judgment/order dated 05.03.2019 passed by learned Additional Sessions Judge, Patiala are set aside and the petitioner stands acquitted of the charge levelled against him.

May 13, 2019  
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( RAJBIR SEHRAWAT )  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |