

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

CRM-M-25850-2018 (O&M)

Date of decision: 31.01.2019

Gopal Saini

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Munfaid Khan, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for setting aside the judgment of conviction dated 22.02.2017 and order of sentence of the even date, passed by the trial Court, vide which, 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 was sentenced to undergo rigorous imprisonment for a period of six months and to pay the compensation to the tune of ₹2,60,000/- to the complainant under the provisions of Section 143(1) of the N.I. Act, along with all consequential proceedings.

Brief facts of the case are that accused/petitioner being a friend of respondent No. 2/complainant borrowed an interest free and friendly loan of ₹1,40,000/- on 27.11.2013 for six months in the presence of witnesses and executed a receipt and affidavit on 27.11.2013 and 28.11.2013, respectively. Thereafter, when after the stipulated time of six months,

respondent No. 2/complainant demanded the repayment of said amount, the accused/petitioner, admitting his liability, issued him a cheque bearing No. 229340 dated 30.05.2014 for an amount of ₹1,40,000/- drawn on Axis Bank Ltd., Ballabhgarh, Faridabad. However, on presentation of the said cheque to the bank, the same was dishonoured with the remarks 'account closed'. Consequently, respondent No. 2/complainant issued a legal notice on 12.06.2014 to the accused/petitioner calling upon him to return the said amount, however, despite having received the legal notice, the accused did not make the payment of cheque amount to the complainant and the impugned complaint was filed under Section 138 of the N. I. Act, in which, the accused/petitioner was convicted and sentenced by the trial Court as noticed above. Hence, the present petition.

On the very first date of hearing i.e. 13.06.2018, respondent No. 2/complainant Anil Kumar appeared in person and stated that he has settled the dispute with petitioner Gopal Saini.

In view of the statement made by the complainant, the matter was referred to the Mediation and Conciliation Centre of this Court for recording of the statement of parties.

On the same day, the statement of complainant Anil Kumar was recorded before the Mediator, wherein, he stated that he has compromised the matter with the petitioner and has received the loan amount as full and final settlement on 27.02.2018 and he has no further claim against the petitioner and has no objection if the proceedings against the petitioner are quashed. Consequently, noticing the aforesaid fact, sentence of the petitioner was suspended and he was ordered to be released subject to his

furnishing bail/surety bonds to the satisfaction of trial Court/Illaqua Magistrate.

Today, the matter has been taken up for hearing and in view of the facts and circumstances of the case, it is submitted by learned counsel for the petitioner that the present petition may be allowed and the offence may be compounded in view of the provisions of Section 147 of the N. I. Act.

After hearing learned counsel for the petitioner and considering the fact that the parties have amicably settled their 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 **2018 (1) R.C.R. (Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another** 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.

Accordingly, this petition is allowed and judgment of conviction dated 22.02.2017 and order of sentence of the even date, passed by the trial Court, are set set aside. Bail/surety bonds, furnished by the petitioner, be discharged accordingly.

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

January 31, 2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No