

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

CRR No. 812 of 2019 (O&M)

Date of decision: 30.09.2019.

Vicky Singh

..... Petitioner.

Versus

Bhagwant Singh and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Mohit Garg, Advocate, for the petitioner.

Mr. Kanwaljeet Singh, Advocate, for respondent No. 1.

Mr. K.K. Bheniwala, Additional Advocate General, Punjab,
for respondent No. 2.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the judgments and orders of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act' - for short) and has been sentenced to undergo simple imprisonment for one year and pay a fine of ₹8,000/-.

Learned counsel for the petitioner contends that the allegations against the petitioner are that the cheque issued by him in favour of respondent No. 1 (complainant) for a sum of ₹9,25,000/- on 21.12.2012 was dishonoured due to 'insufficient funds'. He also contends that the matter has now been compromised between the parties as the petitioner has agreed to pay an amount of ₹7,00,000/- to respondent No.1 (complainant) as full and final settlement of the dispute within a period of 18 months. He has referred to the 'settlement agreement' arrived at between the parties before the

Mediation and Conciliation Centre of this Court on 09.09.2019. He also prays that in view of the judgment of the Supreme Court in the case of Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663, the matter may be compounded. He further contends that the petitioner is an unemployed and he is dependent on his wife, who is working as a Clerk in a private bank and, therefore, costs be reduced.

Mr. Kanwaljeet Singh, Advocate, for respondent No.1 (complainant) states that the matter has indeed been compromised between the parties as the petitioner has agreed to pay a sum of ₹7,00,000/- to respondent No.1 (complainant) as full and final settlement of the dispute within a period of 18 months. He also states that respondent No.1 (complainant) has 'no objection' if offence is compounded in terms of the judgment in Damodar S. Prabhu's case (supra), however, he may be granted liberty to prefer an application in case the petitioner resiles from the settlement agreement.

The petitioner has been convicted under Section 138 of the NI Act. As the dispute has been settled by the parties and the petitioner has agreed to pay an sum of ₹7,00,000/- to respondent No.1 (complainant) as full and final settlement of the dispute within a period of 18 months, it would be in the interest of justice if the offence is compounded under Section 320 (6) of the Code of Criminal Procedure, 1973. The liability under Section 138 of the NI 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 offence under Section 138 of the NI Act is compounded and the judgment and order dated

16.02.2015 passed by the trial Court as well as the judgment dated 21.10.2016 passed by the Lower Appellate Court are set aside. The petitioner is acquitted of the charges framed against him. He be released forthwith if not required in any other case.

However, it is made clear that in case the petitioner resiles from the settlement agreement, respondent No. 1 (complainant) shall be at liberty to prefer an application in that regard. The petitioner shall also deposit a sum of ₹30,000/- as cost with the Punjab State Legal Services Authority within a period of one month from today.

(ANUPINDER SINGH GREWAL)
JUDGE

30.09.2019

Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No