IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30992-2014,
CRM-M-31105-2014 and
CRM-M-31106-2014
Date of Decision:27.09.2019

N.K.Oswal and another

...Petitioners

Versus

Employees State Insurance Corporation through its Insurance Inspector

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Jainainder Saini, Advocate for the petitioners.
Mr.B.S.Bhatia, Advocate for the respondent.

ANIL KSHETARPAL, J.

By this order, three petitions bearing CRM-M Nos. 30092, 31105 and 31106 of 2014 shall stand disposed of.

Three complaints under Section 138 of the Negotiable Instrument Act, 1881 were filed by the Employees State Insurance Corporation, resulted in conviction of the petitioners.

During the pendency of the appeal, application for compounding of the offence was filed along with the Demand Draft of the cheques amount. The appellate court dismissed the appeal on the ground that the complainant is not agreeable to the compounding.

It is undisputed that the amount representing the defaulted cheques has been deposited with the appellate court. There is delay in payment of the amount ranging from 9 years to 6 years. The respondent-complainant is a statutory Corporation. No doubt, the petitioners have committed default in payment of the amount but the petitioners have also faced protracted trial for the last 11 years as the complaints were filed in the year 2008.

As per Section 147 of the Act of 1881, offence under Section 138 of the Act of 1881 is compoundable. The Hon'ble Supreme Court in case of **Damodar S. Prabhu v. Sayed Babalal H., 2010 (5) SCC 663,** while considering Section 147 of the Act of 1881, has laid down certain guidelines for compounding even if complainant does not agree, the Court can still exercise its power.

Keeping in view the facts of the case and more particularly offer of the petitioners to pay the cheque amount with additional amount as cost, this Court is of the considered opinion that ends of justice would be met if the petitioners are ordered to pay the cheque amount with compound interest @ 15% per annum with yearly rest from the date of the default till payment along with Rs.30,000/- per case towards delayed payment and cost of litigation. This Court has been informed that Demand Drafts representing the defaulted cheque amount are with the appellate court. The petitioners shall be at liberty to move an application to take back the aforesaid drafts.

In view of the above, all these three petitions are disposed of. However, it is made clear that if the payment, as directed above, is deposited with the respondent-Corporation within a period of two months, the revisions shall stand dismissed.

Disposed of, accordingly.

27.09.2019 **(ANIL KSHETARPAL)**
mks **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No