

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40486-2013

Date of decision: 26.03.2019

Priya Aditya and others

..... Petitioners

Versus

Sharad Goel

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Gaurav Chopra, Advocate for the petitioners.

Mr. RS Pandher, Advocate for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing impugned Complaint No. 126/30.03.2009/16.04.2009 (Annexure P-1) under Section 138 of the Negotiable Instruments Act, 1881 (for short-'the Act'); order dated 15.12.2011 (Annexure P-6) dismissing the application of the petitioners under Section 320 Cr.P.C., for compounding the offence on the basis of compromise dated 23.04.2010 (Annexure P-2) and order dated 09.05.2013 (Annexure P-8) of the Revisional Court, dismissing revision of petitioners against the order dated 15.12.2011 (Annexure P-6).

Briefly, respondent filed a complaint under Section 138 of the Act, against the petitioners. During trial, compromise (Annexure P-2) allegedly took place in between the parties. On the basis whereof, the petitioners, relying upon a judgment of Hon'ble the Supreme Court in

Damodar S. Prabhu Vs. Sayed Babalal H., 2010(2) RCR (Criminal) 851, moved application dated 25.07.2011 (Annexure P-4) for compounding the offence, which after due contest was dismissed by the trial Court vide order Annexure P-6.

Being dissatisfied, the petitioners preferred revision, but remained un-successful as their revision too was dismissed vide order Annexure P-8.

Learned counsel for the petitioners, while drawing attention of this Court towards compromise dated 23.04.2010 (Annexure P-2), contends that the entire terms and conditions of the same were complied with in its letter and spirit by the petitioners, except payment of only two installments. Therefore, complaint of respondent under Section 138 of the Act was liable to be dismissed having been compromised. In support of his contentions, learned counsel for the petitioners has relied upon a judgment of Apex Court in **M/s Meters and Instruments Pvt. Ltd. and another Vs. Kanchan Mehta, 2017(4) RCR (Criminal) 476**.

On the other hand, learned counsel for the respondent refuting the above submissions, pleading the legality and validity of impugned orders Annexures P-6 and P-8, contends that the security amount of Rs.7,00,000/- along with agreed rate of interest i.e. @ 18% per annum, besides two installments of Rs.30,450/- each, totalling Rs.60,900/- as per compromise Annexure R-1 still remains unpaid. Therefore, the offence under Section 138 of the Act was not compoundable.

Having given thoughtful consideration to the rival

submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow:

The matter in dispute requires appreciation of evidence, which can only be done by leading evidence during trial, inasmuch as, there is a dispute of refund of security amount of Rs.7,00,000/-. Both the Courts below have rightly observed that the offence can only be compounded, where both the parties to the litigation are in agreement to the same. Compounding of an offence cannot be thrust upon complainant, simply because, accused wishes so.

The facts and circumstances of the judgment relied upon by learned counsel for the petitioners do not mandate that a Court is bound to accept the application of the accused to compound the offence, in case, complainant does not wish so and dispute the alleged compromise. Therefore, no benefit, whatsoever, of the same can be given to the petitioner.

I have carefully gone through the orders of both the Courts below and find no illegality or perversity in the same.

Dismissed.

March 26, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No