

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

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CRR No.1022 of 2019 (O&M)
Date of decision : 23.07.2019

Sanjeev Rajput

... Petitioner

Versus

State of Haryana and another

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. H.S. Randhawa, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Abhay Jogan, Advocate 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 and has been sentenced to undergo simple imprisonment for a period of six months and pay the cheque amount of Rs.3,80,000/- with interest at the rate of 9% per annum.

The allegation against the petitioner are that the cheque issued by him for a sum of Rs.3,80,000/- was stated to have been dishonoured on account of insufficient funds.

This Court, by order dated 10.05.2019, had directed the parties to appear before the Mediation Centre of this Court for exploring the possibilities of amicable settlement.

The report of the Mediation Centre has been received which indicates that the parties have settled the matter. A copy of the settlement is

Learned counsel for the petitioner states that the petitioner has already paid a sum of Rs.1 lac to the complainant and as per the terms of the compromise, he shall be paying the outstanding amount of Rs.3 lacs in two installments i.e. one lac shall be paid on or before 07.08.2019, while remaining Rs.2 lacs shall be paid to the complainant on or before 07.11.2019.

Learned counsel for the complainant states that the matter indeed has been compromised.

Heard.

The allegations against the petitioner are that the cheque issued by him for a sum of Rs.3,80,000/- was dishonoured on account of insufficient funds. The liability under the Act is primarily civil in nature. Now the matter has been compromised and the petitioner has already paid a sum of Rs.1 lac and shall be paying the outstanding liability of Rs.3 lacs in installments. The petitioner has already undergone total sentence of three months out of the sentence of six months.

The offence under Section 138 of the Act is compoundable even at this stage in the light of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663**. The petitioner has been convicted under Section 138 of the Act. As the dispute has been settled by the parties as the petitioner has made the partial payment and has undertaken to pay the remaining amount in installments, it would be in the interest of justice, if the offence is compounded under Section 147 of the Act. The liability under Section 138 of the 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 judgment and order of sentence dated 14.11.2017 passed by the trial Court and the judgment dated 02.03.2019 passed by the Appellate Court, are set aside. The petitioner is acquitted of the charges.

However, the complainant is at liberty to prefer an application, in the event of the petitioner resiling from the compromise.

(ANUPINDER SINGH GREWAL)
JUDGE

July 23, 2019
sonia gugnani

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