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

**CRR-4022-2014 (O&M)
Date of decision-17.01.2019**

Rahul Thakur and others

....Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sanjay Vashisth, Advocate for the petitioners.

Mr. Nishchal Maan, AAG, Haryana.

Mr. Amandeep Saini, Advocate for
Mr. Gurinderpal Singh, Advocate for respondent No.2.

MANOJ BAJAJ, J.

CRM-38061-2014

Application is allowed as prayed for.

Annexures P-1 to P-5 are taken on record.

Main case

The present petition has been preferred by the petitioners against the judgment and order dated 03/06.05.2014, passed by the Judicial Magistrate 1st Class, Gurgaon, convicting under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of six months and to pay compensation under Section 357(3) Cr.P.C of Rs.6,51,700/- to the complainant within one month and judgment dated 04.12.2014, passed by the learned Additional Sessions

Judge, Gurgaon, whereby the judgment and order passed by the learned trial Court, have been upheld.

The learned counsel for the petitioners contends that a draft No.171943 dated 19.12.2014 amounting to Rs.6,51,700/- has been issued in favour of respondent No.2 and the complainant is satisfied with the amount so aggrieved between the parties. Learned counsel for the petitioners refers to the order dated 22.12.2014 wherein it is recorded that respondent No.2 accepted the fact before this Court that the entire money has been received. It is pointed out that on 20.09.2017, this Hon'ble Court had observed that the 15 % cheque amount is yet to be deposited with the Legal Services Committee in terms of the judgment titled as “**Damodar S.Pradbhu Vs. Sayed Babalal H.,2010 (5) SCC 663**”.

Learned counsel for the petitioners contends that the petitioners are not in a position to pay the 15% amount of the cheque and the non-compliance of the same would render the settlement between the parties as meaningless and infructuous. It is prayed that the petitioners be exempted from making the payment.

Learned counsel for the complainant-respondent No.2 admits the fact that amount has been paid and states that he has no objection, in case, the offence is ordered to be compounded qua the petitioners.

Considering the stand of the parties and the fact that the petitioners are unable to meet the expenses of penalty amount, this Court is of the opinion that it would be in the interest of justice, if the petitioners are exempted from penalty amount. Accordingly, penalty part is exempted and

the compounding of the offence is accepted; judgment of conviction and order of sentence dated 03/06.05.2014, passed by the learned trial Court, and judgment dated 04.12.2014, passed by the learned Appellate Court, are hereby set aside and the complaint is rendered inconsequential.

Disposed off.

(MANOJ BAJAJ)
JUDGE

17.01.2019
vanita

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