

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4158 of 2017

DATE OF DECISION: JULY 19, 2019

DHARAM SINGH & ANOTHER

...PETITIONERS

VERSUS

JOGINDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. AAYUSH BATRA, ADVOCATE
FOR MR. A.D.S. JATTANA, ADVOCATE
FOR THE PETITIONERS.

MR. MAYANK MATHUR, ADVOCATE
FOR THE RESPONDENT.

MANOJ BAJAJ, J.(ORAL)

This revision petition has been filed by the petitioners challenging the judgement dated 2.11.2017 passed by the Addl. Sessions Judge, SAS Nagar, Mohali, whereby judgement dated 9.2.2016 passed by Judicial Magistrate Ist Class, SAS Nagar, Mohali, convicting the petitioner under Section 138 of Negotiable Instruments Act, 1881 and sentencing him to undergo R.I. for 1 year and to pay a fine of ₹5000/- and in default, to undergone a further period of S.I. for 1 week was upheld.

It was the case of the respondent-complainant that he was an agriculturist and used to sell his crop through the petitioner No.1, who was a Commission Agent in the grain market. Further, that the accused-petitioner used to take friendly loans from the complainant for his business and return the same. On 30.10.2012, accused-petitioner No.1 took a loan of 4,00,000/- on interest @ 1.5% per month and promised to pay back the same in July,

2013. When the petitioner failed to repay the said loan alongwith interest, the complainant approached him and the petitioner showed his inability to pay the interest part and issued a cheque No.359520 dated 30.7.2013 and made a word to pay the interest later. The said cheque was presented before the Bank for encashment which got dishonored vide memo dated 31.7.2013 with remarks "Insufficient Funds". The petitioner was approached and the petitioner assured to pay the same with interest by the end of September, 2013 and asked the petitioner to present the cheque after that. The cheque was again presented on 1.10.2013 for encashment, but the same again got dishonored for "Insufficient Funds". Thereafter, a legal notice dated 21.10.2013 was sent to the petitioner, but the petitioner failed to give any response, thereby compelling complainant to institute the complaint.

On the basis of the above, the petitioners were summoned to face prosecution under Section 138 of the Negotiable Instruments Act, 1881.

The trial Court after examining the evidence held the petitioner guilty and convicted and sentenced him as stated above. An appeal was filed by the petitioner challenging the aforesaid judgement which was dismissed by the appellate Court.

Hence the present revision petition.

A perusal of the case file shows that the notice of motion was issued as there existed chance for a compromise between the parties and as such, the case was referred to the Mediation & Conciliation Centre of this Court.

As per report dated 6.4.2018 of the Mediator, Mediation & Conciliation Centre of this Court, it has been stated that the matter has been

amicably settled between the parties. A written settlement dated 4.4.2018 has also been annexed with the said report and a perusal of same shows the factum of compromise between the parties. The dispute was settled with an agreement that petitioner shall pay a sum of ₹2 lakhs to the respondent. Learned counsel for the parties are *ad idem* that the terms of compromise have been complied with. It has been stated in the said compromise that the parties have no further claims or demands against each other and they shall not institute any other case against each other with reference to the cheque in dispute. The parties have further settled that the respondent will withdraw the Execution Petition filed by him against the petitioners in a recovery suit decreed in favour of the respondent and the respondent has no objection if the present petition is disposed off in view of the present compromise.

Since the parties to the *lis* have amicably settled the matter and a compromise has been arrived at between them, and the respondent has no objection if the present petition is disposed off. Resultantly, while compounding the offence under Section 138 of the Negotiable Instruments Act, 1881, the impugned judgement of conviction and order of sentence passed by the Courts below are set aside and the complaint is declared inconsequential.

Disposed off.

July 19, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No