

S.No.250

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

CRR No.1499 of 2018 (O&M)

Date of Decision:14.05.2019

M/s Bala Ji Panels and another

.....Petitioners

Vs.

State of Haryana and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Namit Khurana, Advocate
for the petitioners.

Mr. Parveen Aggarwal, DAG, Haryana.

Ms. Vijay Laxmi, Advocate for
Mr. Ramnish Puri, Advocate for
respondent No.2.

Rajbir Sehrawat, J.(Oral)

This is a revision petition challenging the judgment dated 10.04.2018 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby, the appeal filed by the present petitioners was dismissed and the judgment of conviction/order of sentence dated 01.07.2015/02.07.2015 under Section 138 of the Negotiable Instruments Act, passed by Judicial Magistrate Ist Class, Jagadhri, in Criminal Complaint No.1289 dated 06.05.2013, sentencing the petitioner- Rakesh Kumar to rigorous imprisonment for a period of one year and to pay compensation to the tune of Rs.2,50,000/- in terms of Section 357(3) Cr.P.C to the complainant within two months was upheld.

During the pendency of the present petition, the parties appeared to have compromised the matter. Therefore, a prayer was made by counsel for the petitioner, to send the parties to the trial Court/ Illaqa Magistrate to get their statements recorded qua the compromise arrived at between the parties. Since by pleading compromise, the petitioners had sought compounding of the offence punishable under Section 138 of the Negotiable Instruments Act, therefore, vide order dated 30.05.2018, the petitioner was directed to deposit 15% of the cheque amount with High Court Legal Services Committee, Chandigarh in terms of the judgment of Hon'ble the Supreme Court in the case of **Damodar S. Prabhu v. Sayed Babalal H., 2010 AIR (SC) 1907.** Learned counsel for the petitioners has placed on record a receipt of Rs.30,000/- being deposited with High Court Legal Services Committee, Chandigarh, pursuant to the order dated 30.05.2018 passed by this Court. Accordingly, vide order dated 30.07.2018/15.01.2019, the parties were directed to appear before the learned trial Court/Illaqa Magistrate, for getting their statements recorded; as to the genuineness of the compromise with a further direction to the trial Court/ Illaqa Magistrate for submitting a report whether the compromise is without any pressure or not.

In compliance of the order dated 30.07.2018/15.01.2019, report of Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, dated 14.02.2019, has been received, wherein, it has been noticed that the matter has been compromised with the intervention of respectables of village and the compromise has been effected with their free consent and without any pressure or undue influence from any quarter.

Counsel for the petitioners submits that since the matter has

been amicably settled between the parties, therefore, the parties may be permitted to compound the offence; and by setting aside the judgments/orders passed by the Courts below, the petitioner be ordered to be acquitted of the charges.

Ms. Vijay Laxmi, Advocate appearing on behalf of the respondent No.2/ complainant, does not dispute the compromise arrived at between the parties. She has expressed her no objection for compounding of the offence as prayed by counsel for the petitioners.

The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.

However more often than not the civil disputes or inter-se conflicts of two parties transforms themselves into criminal aspect. Therefore, the legal system plays empire to resolve the conflict between two parties; with the added task of ensuring that the adverse impact of dispute qua society at large is minimized. But still the core idea is to resolve the

conflict between two sides by putting it to rest. Therefore, even the criminal law is required to give due regard to the wishes of the parties to dispute. Recognizing this principle only, the Indian legal System also provides for recognizing the compromise between two sides of a criminal dispute. Section 320 Cr.P.C. is an express provision in this regard. This section not only provides for compounding during the trial, but permits compounding even at appellate or revisional stage. However by its very nature and scope, Section 320 Cr.P.C. cannot be the sole repository; wherein the recognition to a compromise between the parties have; necessarily; to be confined. This section relates only to the offences prescribed under the Indian Penal Code. There are a lot more offences prescribed outside IPC. Even to the offences existing in the IPC new dimensions are added from time to time, making the existing offences to be lighter or stringent and even new modalities of proof of offences are being recognised in view of technological advancement. This necessitates and requires the need for looking beyond Section 320 Cr.P.C. to recognise the compromise between the parties to dispute. But to maintain the sanctity of the procedure prescribed for criminal trial; the Trial Court cannot be permitted to travel beyond the scope prescribed under that procedure. Hence the need for invoking Section 482 Cr.P.C. by the High Court.

So far as offence under Section 138 of NI Act is concerned, even the NI Act permits the compounding of offence at any stage.

Accordingly, the present revision petition is allowed. Necessary permission for compounding of offence under Section 138 of the Negotiable Instruments Act, for which the petitioner was convicted and sentenced by the trial Court, is granted. As a result of compounding, the judgment of

conviction and order of sentence dated 01.07.2015/02.07.2015 under Section 138 of the Negotiable Instruments Act, passed by Judicial Magistrate Ist Class, Jagadhri in Criminal Complaint No.1289 dated 06.05.2013, and the judgment/order dated 10.04.2018 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri are set aside and the petitioners stand acquitted of the charge levelled against them.

May 14, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No