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

**CRM-33227-2018 in/and
CRR No.1909-2018 (O&M)
Date of decision:03.05.2019**

Smt. Anil Chopra

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. G.S.Brar, Advocate, for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab
for respondent No.1-State.

Mr. M.S.Sachdev, Advocate
for respondent No.2/complainant.

RAJBIR SEHRAWAT, J. (ORAL)

The present revision petition is directed against the judgment dated 23.05.2018, passed by learned Additional Sessions Judge, Jalandhar, vide which the appeal preferred by the petitioner-accused was dismissed, while confirming the judgment of conviction and order of sentence dated 21.09.2016, passed by Judicial Magistrate 1st Class, Jalandhar, whereby the petitioner had been convicted under Section 138 of the Negotiable Instrument Act, (in short- the NI Act) and was sentenced to undergo rigorous imprisonment for 02 years.

However, during the pendency of the petition, learned counsel for the parties had made a statement before the Court that they had compromised the matter and they had prayed for permission to compound the offence.

Accordingly, vide Order dated 29.05.2018 the petitioner was directed to deposit the compounding fee in terms of the direction of the Hon'ble Supreme Court rendered in ***Damodar S. Prabhu v. Sayed Babalal H., 2010 AIR (SC) 1907.***

Learned counsel for the petitioner submits that compounding fees has since been deposited. He has referred to the Order dated 25.01.2019, passed by this Court; which refers to the original receipt for the compounding fee having been deposited.

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 then 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.

But, as observed above, the wishes of only parties to the criminal dispute would not always be sufficient to terminate a criminal trial in view of the patent, latent or subtle effect; their conduct would have left qua the society at large. Therefore the offences committed by persons involved in governance or administration for acquiring official power or while exercising office power cannot be permitted to be compromised. Likewise, even the offences involving only two private persons, but reflecting depravity of character or involving causing intentional loss of life or causing intentional loss of property by extending imminent threat of loss of life; cannot be

permitted to be compromised. Except the above mentioned grave offences, there is every reason that all other offences should be permitted to be compromised by the Court. Since the proof of offences before the Court, again would involve the conduct of the parties to dispute, therefore if the Court does not permit the same to be compromised then the parties would tend to play tricks upon the Court to ensure the acquittal of accused by subverting the administration of criminal justice. And it is never in the interest of administration of criminal justice to force the citizen to learn and adopt the tricks designed to be played upon Courts to subvert the justice system. So it would always be in the interest of justice itself; that the compromise between the parties is recognized and the citizen remain moored and committed to the essentials of the system of administration of justice, at least, qua those offences, which the interest of society does not permit to be compromised.

Besides this the Negotiable Instruments Act itself encourages compounding of the offence under this Act. The Act is so liberal on the matter of the compounding that it provides for compounding of the offence under this Act by using a '*Non-obstante*' clause against any limiting factors under Cr.P.C.

Accordingly, the present petition is allowed. The complaint under Section 138 of the NI Act and all consequential proceedings arising therefrom; along with the judgment 23.05.2018 passed by learned Additional Sessions Judge, Jalandhar as well as, the judgment of conviction and order of sentence dated 21.09.2016, passed by Judicial Magistrate 1st Class, Jalandhar, are hereby quashed qua the present petitioner on the basis of compromise arrived at between the parties. Petitioner is ordered to be acquitted of the charge.

Since the petitioner is already on bail, the bonds/sureties
furnished by her be discharged accordingly.

(RAJBIR SEHRAWAT)
JUDGE

3rd May, 2019
Shivani Kaushik

Whether speaking/reasons	Yes/No
Whether Reportable	Yes/ No